

1           IN THE UNITED STATES DISTRICT COURT  
2           FOR THE EASTERN DISTRICT OF OHIO  
3           EASTERN DIVISION

4                                 -   -   -  
5   IN RE:   NATIONAL                 :   MDL NO. 2804  
6   PRESCRIPTION OPIATE           :  
7   LITIGATION                       :  
8   -----

9                                 :   CASE NO.  
10   THIS DOCUMENT                 :   1:17-MD-2804  
11   RELATES TO ALL CASES:  
12                                 :   Hon. Dan A.  
13                                 :   Polster  
14                                 -   -   -

15                                 Friday, December 14, 2018  
16                                 -   -   -

17   HIGHLY CONFIDENTIAL - SUBJECT TO FURTHER  
18   CONFIDENTIALITY REVIEW  
19                                 -   -   -

20                                 Videotaped deposition of  
21   ELIZABETH GARCIA, taken pursuant to  
22   notice, was held at the law offices of  
23   Reed Smith LLP, Three Logan Square, 1717  
24   Arch Street, Suite 3100, Philadelphia,  
25   Pennsylvania 19103, beginning at 9:49  
26   a.m., on the above date, before Amanda  
27   Dee Maslynsky-Miller, a Certified  
28   Realtime Reporter.  
29                                 -   -   -

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23 ALSO PRESENT:  
24 Devyn Mulholland, Videographer

# I N D E X

Testimony of: ELIZABETH GARCIA

By Mr. Cluff

12

# E X H I B I T S

NO.	DESCRIPTION
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AmerisourceBergen-Garcia

Exhibit-2      LinkedIn Profile;  
Elizabeth Garcia

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Exhibit-3      ABDCMDL00296978-981

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1 - - -

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10 Request for Production of Documents

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15 Stipulations

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20 Question Marked

21 Page Line Page Line Page Line

22 None

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- - -

2

(It is hereby stipulated and

3

agreed by and among counsel that

4

sealing, filing and certification

5

are waived; and that all

6

objections, except as to the form

7

of the question, will be reserved

8

until the time of trial.)

9

- - -

10

VIDEO TECHNICIAN: We are

11

now on the record. My name is

12

Devyn Mulholland, I'm a

13

videographer for Golkow Litigation

14

Services. Today's date is

15

December 14th, 2018. The time is

16

9:49 a.m.

17

This video deposition is

18

being held in Philadelphia,

19

Pennsylvania in the matter of

20

National Prescription Opiate

21

Litigation. The deponent is

22

Elizabeth Garcia. Counsel will be

23

noted on the stenographic record.

24

The court reporter is Amanda

1 Miller and will now swear in the  
2 witness.

3 - - -

4 ELIZABETH GARCIA, after  
5 having been duly sworn, was  
6 examined and testified as follows:

7 - - -

8 EXAMINATION

9 - - -

10 BY MR. CLUFF:

11 Q. Good morning, Liz. I'm  
12 sorry, do you go by Liz?

13 A. Liz.

14 Q. Is it okay if I call you Liz  
15 today?

16 A. (Witness nods.)

17 Q. Thank you.

18 My name is Sterling. We met  
19 briefly just before we went on the  
20 record. I represent plaintiffs in this  
21 case. I'm taking your deposition today.

22 Before we get started, I  
23 just wanted to learn whether or not  
24 you've been deposed before?

1                   A.       No.

2                   Q.       No, okay.

3                               So I'm sure you had an  
4       opportunity to prepare for today's  
5       deposition with your lawyers. I would  
6       just caution you that nothing that you  
7       discussed in that prep should be  
8       discussed here today with me.

9                               But I would like to go  
10      through with some rules of the road for a  
11      deposition so that we're kind of both  
12      clear on what we're going to do today.

13                              The first thing is that  
14      everything that we're doing today is  
15      being recorded by video and by the court  
16      reporter here, transcribed. And so we  
17      have to do our best not to talk over each  
18      other and to let everybody finish their  
19      sentences and to speak clearly.

20                              Does that make sense?

21                   A.       That makes sense.

22                   Q.       And because we're also on  
23      video and the court reporter is trying to  
24      hear what we're saying, we have to speak

1 audibly, to the best of our ability. So  
2 if you can, you know, project a little  
3 bit so she doesn't have to get after us  
4 today.

5 A. Okay.

6 Q. Okay. We also -- you know,  
7 we want to make sure today that  
8 everything is clear for the record. So  
9 at different times during today's  
10 deposition I might ask you a question, if  
11 you don't understand my question, you can  
12 let me know and I can rephrase it or I  
13 can clarify what I'm asking. But  
14 otherwise I'll assume that you understood  
15 my question if you answer it.

16 Does that make sense?

17 A. It makes sense.

18 Q. So we can agree that if you  
19 have a question about my question, you're  
20 going to ask me?

21 A. Yes.

22 Q. All right. Good.

23 We also want to make sure  
24 that you can give accurate and honest and

1 complete testimony today. So I normally  
2 wouldn't ask you questions like this, but  
3 are you taking any medication that would  
4 affect your ability to give truthful  
5 testimony?

6 A. No.

7 Q. Do you have any medical  
8 conditions that might impair your ability  
9 to give honest and complete testimony  
10 today?

11 A. No.

12 Q. Okay. Your counsel today,  
13 Ms. McClure, is going to, at different  
14 times, assert what are called objections.  
15 I'm sure she discussed this with you.  
16 She's entitled, under the law and the  
17 deposition protocol, to make her  
18 objections. And we want to make sure she  
19 gets a chance to.

20 So after I ask a question,  
21 just a little pause, make sure she can  
22 get her objection on the record, and then  
23 you can proceed to answer.

24 I am entitled to an answer

1 to my question despite Ms. McClure's  
2 objections unless I rephrase or withdraw  
3 my question or unless she instructs you  
4 not to answer.

5 Does that make sense?

6 A. That makes sense.

7 Q. We're also going to be  
8 discussing matters today that go back  
9 quite a while in time. So I understand  
10 you might not have a perfect recollection  
11 of the subject matter we're discussing.  
12 But I would ask you not to guess, but I  
13 am entitled to your best recollection or  
14 your best estimate.

15 Does that make sense to you?

16 A. That makes sense.

17 Q. So just to clarify a guess  
18 versus an estimate, like, you can  
19 estimate how long this table is because  
20 you've seen it before, but if you've  
21 never seen the table before, I would ask  
22 you not to guess at the length.

23 Does that make sense?

24 A. Makes sense.



1           Q.     There may be times when you  
2     don't recall an answer. I'm entitled to  
3     see if there is information that might  
4     refresh your recollection, whether that  
5     be through documents or additional  
6     questions. So if I follow up on a  
7     question where you say that you don't  
8     know, just understand what I'm trying to  
9     do is see if we can refresh your  
10    recollection at all.

11                   Does that make sense?

12           A.     Okay.

13           Q.     Okay. I'd like to hand you  
14    a document to get started today. At  
15    different points during today's  
16    deposition, I'm going to hand you  
17    documents that we're going to mark as  
18    exhibits to your deposition.

19                   And you're always entitled  
20    to review the entirety of the document to  
21    make sure that you understand it before I  
22    question you about it. So I'll always  
23    give you that opportunity.

24                   The only caveat I would give

1 is that I understand you flew today -- or  
2 you flew out from Colorado for today's  
3 deposition. So I'm trying to be  
4 conscious of your time and get us all out  
5 of here as quickly as possible.

6 So if I can tell you that  
7 there's only a portion of a document I'm  
8 going to look at, I'm going to reference  
9 that, and then you can determine whether  
10 or not, after looking at that section,  
11 whether you want to proceed having  
12 reviewed it or if you need to review the  
13 entire document.

14 Does that make sense?

15 A. That makes sense.

16 Q. Sometimes this goes faster  
17 if we can just focus on a portion of a  
18 document.

19 So I'm going to hand you the  
20 first document for today, which we're  
21 going to mark as Exhibit-1 to your  
22 deposition. It is a document from your  
23 personnel file that is Bates stamped  
24 numbered ABDCMDL00364827.



1 page and let me know when you've had a  
2 chance to review it.

3 A. Okay.

4 Q. So you've had a chance to  
5 familiarize yourself with that page?

6 A. Yes.

7 Q. We're going the talk about  
8 this document more, so I'll give you  
9 another chance to look at it later in its  
10 entirety, but there's really only two  
11 sections that I wanted to discuss right  
12 now.

13 If you go back to the page  
14 just before it, at the very top, do you  
15 see -- and just so you're aware, there's  
16 a screen in front of you that will show  
17 the document that you're looking at in  
18 realtime, and sometimes Zach, who is down  
19 here at the end of the table next to me,  
20 will highlight the portions of it that  
21 I'm referencing so you can use both  
22 resources.

23 At the top of the page there  
24 it says, ABC Core Leadership

1 Competencies, and there's a Roman Numeral  
2 II in front of that?

3 A. Yes.

4 Q. And it appears that the  
5 information on the next page, Page 3, are  
6 comments.

7 Would those comments be  
8 about the ABC core leadership  
9 competencies?

10 A. Yes, I believe so.

11 Q. I want to direct your  
12 attention to the last underlined  
13 information there at the bottom of that  
14 section. It's, Integrity and trust.

15 Do you see that?

16 A. Yes.

17 Q. It's also on the screen  
18 there in front of you.

19 And these are comments that  
20 you would have written, correct?

21 A. Yes, correct.

22 Q. And there you say, I am a  
23 direct and truthful person and will  
24 present the truth in an appropriate and

1 helpful manner.

2 A. Correct.

3 Q. Is that still true today?

4 A. Yes.

5 Q. And you continue and say, I  
6 can be counted on to take personal  
7 responsibility for whatever happens, even  
8 if a mistake is made.

9 Right?

10 A. Correct.

11 Q. Is that still true today?

12 A. Yes.

13 Q. I want to direct your  
14 attention to another section that's  
15 midway up the page from there.

16 It says, Decision capability  
17 and quality.

18 Do you see that?

19 A. Yes.

20 Q. Are these also comments that  
21 you would have read -- I mean, you would  
22 have written?

23 A. Yes.

24 Q. And it says there, I am a

1 solid decision-maker, taking the time to  
2 think through problems and examine the  
3 facts before choosing a course of action.

4 Did I read that accurately?

5 A. Yes.

6 Q. And would you say that that  
7 is still true today?

8 A. Yes.

9 Q. You continue and say that  
10 your approach is generally methodical in  
11 solving problems and you'll examine  
12 situations from a variety of perspectives  
13 before a final decision is made.

14 Do you see that?

15 A. Yes.

16 Q. Is that still true today?

17 A. Yes.

18 Q. I noted those two sections  
19 because they stood out to me in your  
20 file, and I just wanted to understand if  
21 we can approach today's deposition within  
22 that same framework?

23 MS. MCCLURE: Objection.

24 THE WITNESS: Okay.

1 BY MR. CLUFF:

2 Q. Okay. So you intend to be  
3 honest and appropriate and helpful today?

4 A. Yes.

5 Q. Do you intend to take  
6 personal responsibility if we determine  
7 that there were mistakes made in your job  
8 performance?

9 MS. MCCLURE: Continuing  
10 objection.

11 THE WITNESS: Yes.

12 BY MR. CLUFF:

13 Q. And we'll -- do you intend  
14 to carefully think through the problems  
15 and examine the facts before making your  
16 answers today?

17 MS. MCCLURE: Continuing  
18 objection.

19 THE WITNESS: To the best of  
20 my ability, yes.

21 BY MR. CLUFF:

22 Q. Okay. Thank you. You can  
23 set that aside.

24 Just as a helpful



1 suggestion, at the bottom of that  
2 document, you'll note that I put a  
3 sticker that says Exhibit-1. So later  
4 during today's deposition I might refer  
5 to exhibits as Exhibit-1. If you can  
6 kind of keep them in order, it makes it  
7 easier for you.

8 A. Okay.

9 Q. So I'd like to hand you  
10 another document. We'll mark this as  
11 Exhibit-2.

12 This is a copy from the  
13 Internet, that I printed yesterday, last  
14 night, of your LinkedIn profile. I'd  
15 like to give you a chance to read through  
16 that. We're going to go through this  
17 document in its entirety. So I want you  
18 to go ahead and take your time to review  
19 it.

20 - - -

21 (Whereupon,  
22 AmerisourceBergen-Garcia  
23 Exhibit-2, LinkedIn Profile;  
24 Elizabeth Garcia, was marked for

1 identification.)

2 - - -

3 MR. CLUFF: I think I gave  
4 you an extra copy.

5 THE WITNESS: Okay.

6 BY MR. CLUFF:

7 Q. So I want to start, do you  
8 see on the first page there is some bold  
9 text that says, Experience?

10 A. Yes.

11 Q. And underneath that it says,  
12 Corporate investigator?

13 A. Yes.

14 Q. And underneath that it says,  
15 AmerisourceBergen?

16 A. Yes.

17 Q. I note the dates there are  
18 2012 to 2017.

19 A. Correct.

20 Q. Does that indicate that you  
21 are no longer employed by  
22 AmerisourceBergen?

23 A. I am no longer employed by  
24 AmerisourceBergen.

1 Q. Do you recall when you left  
2 AmerisourceBergen?

3 A. October 2017.

4 Q. And what was the reason for  
5 your departure from AmerisourceBergen?

6 A. I needed a change.

7 Q. Is there any particular  
8 reason why you needed a change?

9 A. I needed a break. I was  
10 burned out.

11 Q. Why were you burned out?

12 A. Just volume of work.

13 Q. Any other reasons?

14 A. I like to shake it up every  
15 five years, for professional development.

16 Q. Did you have any personality  
17 conflicts with members of the diversion  
18 control team at AmerisourceBergen that  
19 prompted your departure?

20 A. I did not get along with my  
21 immediate supervisor.

22 Q. And who was that?

23 A. Eric Cherveney.

24 Q. What was the reason for you

1 two not getting along?

2 A. Personality differences.

3 Q. When you left

4 AmerisourceBergen, did you sign any

5 documents about your resignation?

6 A. No.

7 Q. I'm sorry, I should ask one  
8 more question.

9 Did you resign?

10 A. I resigned.

11 Q. And did you give notice of  
12 your resignation?

13 A. I gave two weeks' notice.

14 Q. Who did you give it to?

15 A. David May.

16 Q. Did you give it verbally or  
17 in a written form?

18 A. Verbally and written.

19 Q. And how did you give it in  
20 written form?

21 A. I just said, my last day is  
22 effective whatever date it was.

23 Q. Was that by e-mail or  
24 letter, or some other written form?

1           A.       That was by e-mail, I  
2 believe.

3           Q.       Did you, in your verbal or  
4 written communications with David May  
5 about your resignation, give him any  
6 explanation about why you were leaving  
7 the company?

8           A.       I just told him I needed a  
9 change.

10          Q.       Did you discuss the fact  
11 that you did not get along with Eric  
12 Cherveney?

13                   MS. MCCLURE:  Objection to  
14 the form.

15                   THE WITNESS:  He already  
16 knew that.

17 BY MR. CLUFF:

18          Q.       So that's a good example.  
19 Shannon is going to have objections and  
20 that's appropriate.  Make sure to try to  
21 give her a chance, if you can.

22                   So I'm going to ask the  
23 question, and we'll give her a chance to  
24 object, and then you can give me your

1 answer so that we get that clear.

2 Did you discuss the fact  
3 that you did not get along with Eric  
4 Cherveney when you told David May that you  
5 were resigning?

6 MS. MCCLURE: Objection to  
7 form.

8 THE WITNESS: He already  
9 knew that.

10 BY MR. CLUFF:

11 Q. Why did he know that  
12 already?

13 A. He knew we were having  
14 issues.

15 Q. How did he know?

16 A. I don't know.

17 Q. Had you previously advised  
18 David May that you were not getting along  
19 with your supervisor, Eric Cherveney?

20 A. I don't recall.

21 Q. Was it common knowledge at  
22 AmerisourceBergen that you and Eric  
23 Cherveney did not get along?

24 MS. MCCLURE: Objection to

1 form.

2 THE WITNESS: I don't know.

3 BY MR. CLUFF:

4 Q. Do you know whether Eric  
5 Cherveney may have explained to David May  
6 that the two of you were not getting  
7 along?

8 MS. MCCLURE: Objection to  
9 form.

10 THE WITNESS: I don't know.

11 BY MR. CLUFF:

12 Q. Did you ever discuss with  
13 anybody else at AmerisourceBergen the  
14 fact that you were not getting along with  
15 Eric Cherveney?

16 A. I don't recall.

17 Q. You didn't discuss it with  
18 any other of the associates that you  
19 worked with?

20 A. I may have, but I don't  
21 remember.

22 Q. If you had discussed it with  
23 other associates, who would it have been?

24 MS. MCCLURE: Objection to

1 form.

2 THE WITNESS: Maybe Nikki  
3 Seckinger.

4 BY MR. CLUFF:

5 Q. Do you recall when that --  
6 those conversations may have occurred?

7 MS. MCCLURE: Objection to  
8 form. Assumes facts not in  
9 evidence.

10 THE WITNESS: I don't  
11 recall.

12 BY MR. CLUFF:

13 Q. How long did you work with  
14 Nikki Seckinger?

15 A. I believe 2015 to 2017.

16 Q. Based on your experience  
17 working with her, would you say that you  
18 two worked closely together?

19 MS. MCCLURE: Objection to  
20 form.

21 THE WITNESS: On numerous  
22 projects.

23 BY MR. CLUFF:

24 Q. Would you consider her to



1 be, like, a work friend or a colleague?

2 A. A colleague.

3 MS. MCCLURE: Objection to  
4 form.

5 BY MR. CLUFF:

6 Q. What kind of information  
7 about your personality conflict with Eric  
8 Cherveney would you have shared with her,  
9 based on your relationship?

10 MS. MCCLURE: Objection to  
11 form. Speculation. Assumes facts  
12 not in evidence. Foundation.

13 THE WITNESS: I don't  
14 recall.

15 BY MR. CLUFF:

16 Q. Do you recall how long --  
17 let me back up. Strike that.

18 To the best of my ability,  
19 I've been trying to call the situation  
20 with Eric Cherveney, the two of you not  
21 getting along. I'd like to use some  
22 shorter words to shorten my question.

23 Are you okay if I call that  
24 a personality disagreement, or how would

1     you describe it?

2             A.     Personality disagreement.

3             Q.     Are you all right if I use  
4     those words to describe your relationship  
5     with Eric Cherveney?

6             A.     Yes.

7             Q.     How long would you say the  
8     personality disagreement between you and  
9     Eric Cherveney lasted?

10            A.     Two years.

11            Q.     And did those two years  
12     coincide with him becoming your direct  
13     supervisor?

14                   MS. MCCLURE:   Objection to  
15     form.

16                   THE WITNESS:   He was my  
17     direct supervisor at those times.

18     BY MR. CLUFF:

19            Q.     Did you have any personality  
20     conflicts with him before he became your  
21     direct supervisor?

22            A.     I didn't know him.

23            Q.     During the two years you  
24     worked with Eric Cherveney, do you

1     remember any particular examples where  
2     the two of you did not get along?

3             A.     Just disagreements on  
4     projects.

5             Q.     What kind of projects?

6             A.     Trainings, what they look  
7     like.

8             Q.     And so what was the  
9     substance of the disagreement?

10            A.     He saw it one way and I saw  
11     it another way.

12            Q.     Did Eric Cherveney oversee  
13     you in all of your job responsibilities,  
14     or just training?

15            A.     All of my job  
16     responsibilities.

17            Q.     Were there conflicts between  
18     you -- or disagreements, excuse me,  
19     between you and Eric Cherveney about other  
20     aspects of your job responsibilities  
21     besides training?

22                    MS. MCCLURE:  Objection to  
23     form.

24                    THE WITNESS:  Repeat the

1 question.

2 BY MR. CLUFF:

3 Q. Sure. You -- I'll rephrase  
4 it. We can kind of walk through it.

5 You previously discussed  
6 that you and Eric Cherveney had a  
7 personality disagreement about trainings;  
8 and he wanted it one way and you wanted  
9 it another.

10 Does that make sense?

11 A. Yes.

12 Q. Okay. I'm curious about  
13 your other job responsibilities.

14 Did you and Eric Cherveney  
15 have any personality disagreements about  
16 any of your other job responsibilities?

17 A. I don't recall.

18 Q. I may ask you later today,  
19 when we talk about some of your job  
20 responsibilities, whether you had  
21 disagreements with Eric Cherveney. If I  
22 do, just understand that that's what I'm  
23 asking about, is this sort of personality  
24 disagreement topic.

1 Does that make sense?

2 A. Uh-huh.

3 Q. So I want to go back to your  
4 departure from AmerisourceBergen.

5 Do you understand that  
6 you're here testifying today as a witness  
7 because of your former employment with  
8 AmerisourceBergen?

9 A. I understand.

10 Q. Do you have an  
11 understanding, without disclosing your  
12 discussions with counsel, about the  
13 allegations in the lawsuit against  
14 AmerisourceBergen?

15 MS. MCCLURE: I'll just  
16 counsel you to -- you can't  
17 disclose any conversations that we  
18 have had in preparation for your  
19 deposition. You can answer that  
20 question yes or no.

21 THE WITNESS: Repeat the  
22 question.

23 BY MR. CLUFF:

24 Q. Sure.

1 MR. CLUFF: And, Shannon, go  
2 ahead and please make the same  
3 instruction, so we're clear.

4 BY MR. CLUFF:

5 Q. I'm asking if you have an  
6 understanding, outside of your  
7 conversations with counsel, regarding the  
8 allegations in the lawsuit against  
9 AmerisourceBergen?

10 MS. MCCLURE: Same  
11 instruction, not to disclose  
12 conversations with counsel.

13 THE WITNESS: Yes.

14 BY MR. CLUFF:

15 Q. Do you have an -- is that  
16 understanding your own or is it derived  
17 from information you gained from counsel;  
18 yes or no?

19 A. My own understanding.

20 Q. Okay. I'd like to  
21 understand your understanding, then.

22 What do you understand to be  
23 the allegations against  
24 AmerisourceBergen?

1           A.       That AmerisourceBergen is  
2     partially responsible for the opioid  
3     crisis.

4           Q.       Okay. Do you understand why  
5     AmerisourceBergen is alleged to have been  
6     responsible for the opioid crisis?

7                   MS. MCCLURE: Objection to  
8     form.

9                   THE WITNESS: Because  
10    they're a distributor.

11   BY MR. CLUFF:

12           Q.       Are there any other reasons?

13           A.       No.

14           Q.       Your lawyers here today that  
15    represent you -- let me ask you this  
16    question: The lawyers sitting next to  
17    you today, do they represent you in this  
18    deposition?

19           A.       Yes.

20           Q.       Are you aware that they also  
21    represent AmerisourceBergen?

22           A.       Yes.

23           Q.       Are you paying the lawyers  
24    that represent you today to represent you

1 in this deposition?

2 MS. MCCLURE: Objection to  
3 form.

4 Do you want her to step out,  
5 or do you want you and I to step  
6 out?

7 MR. CLUFF: You can make  
8 your objection on the record.

9 MS. MCCLURE: Objection to  
10 getting into counsel/client  
11 relationship, and I'm going to --

12 MR. CLUFF: I'm not  
13 exploring the counsel/client  
14 relationship. I'm just asking who  
15 is paying who to represent.  
16 That's not privileged.

17 MS. MCCLURE: Hold on.

18 Okay.

19 MR. CLUFF: So I'll restate  
20 my question.

21 BY MR. CLUFF:

22 Q. Are you paying the lawyers  
23 that represent you today to represent you  
24 in this deposition?



1 A. No.

2 Q. Without disclosing any  
3 conversations you had with the lawyers  
4 that represent you about today's  
5 deposition, do you know who is paying the  
6 lawyers to represent you today?

7 MS. MCCLURE: I'm going to  
8 counsel the witness that to the  
9 extent any understanding of that  
10 is derived from conversations with  
11 counsel, that she's instructed not  
12 to answer.

13 BY MR. CLUFF:

14 Q. You can answer my question,  
15 subject to that limitation.

16 A. I don't know.

17 Q. You don't currently work for  
18 AmerisourceBergen, right?

19 A. Correct.

20 Q. But you're here testifying  
21 as an AmerisourceBergen witness?

22 A. Correct.

23 MS. MCCLURE: Objection to  
24 form.

1 BY MR. CLUFF:

2 Q. We all three talked over  
3 each other, so I'll apologize and we'll  
4 try to clean it up.

5 Is AmerisourceBergen paying  
6 you to testify today?

7 A. No.

8 Q. When you left  
9 AmerisourceBergen, did you have a job  
10 that you were accepting?

11 MS. MCCLURE: Objection to  
12 form.

13 THE WITNESS: No.

14 BY MR. CLUFF:

15 Q. Are you currently employed?

16 A. No.

17 Q. Have you received any  
18 compensation for being at today's  
19 deposition?

20 MS. MCCLURE: Objection to  
21 form.

22 THE WITNESS: No.

23 BY MR. CLUFF:

24 Q. I understand that you had to

1 travel from Colorado to be here today.

2 Did you pay for your own  
3 travel expenses and lodging while you're  
4 here for this deposition?

5 A. No.

6 Q. Do you know who paid for  
7 your travel and lodging while you're here  
8 for the deposition?

9 MS. MCCLURE: Same  
10 instruction, that to the extent  
11 your understanding is derived from  
12 counsel, then you're instructed  
13 not to answer.

14 THE WITNESS: I don't know  
15 exactly who is paying it. I don't  
16 know.

17 BY MR. CLUFF:

18 Q. Do you recall when you --  
19 how did you select the lawyers that are  
20 representing you today to defend you in  
21 this deposition?

22 MS. MCCLURE: Objection to  
23 form.

24 Hold on a moment.

1                   To the extent any of that --  
2                   any of your response to that  
3                   question is derived from an  
4                   understanding or information that  
5                   you learned from counsel, then  
6                   you're instructed not to answer.

7                   THE WITNESS: I can't answer  
8                   that.

9       BY MR. CLUFF:

10                  Q.       Okay. I'm going to ask you  
11                  some additional foundation questions.

12                         Did you reach out to Reed  
13                  Smith and request that they represent you  
14                  in today's deposition?

15                  A.       No.

16                         MS. MCCLURE: Hold on.

17                         Okay. You can answer.

18       BY MR. CLUFF:

19                  Q.       I believe you answered no,  
20                  correct?

21                  A.       Correct.

22                  Q.       So you were first contacted  
23                  by Reed Smith about representing you in  
24                  today's deposition?

1 MS. MCCLURE: Objection to  
2 form.

3 THE WITNESS: Yes.

4 BY MR. CLUFF:

5 Q. I mentioned earlier that I'm  
6 sure you met with your counsel to prepare  
7 for today's deposition. There's nothing  
8 wrong with that, but I'm entitled to  
9 understand the scope of your prep without  
10 understanding the substance of the prep.

11 Does that make sense?

12 A. It makes sense.

13 Q. Okay. So have you met with  
14 your counsel to prepare for today's  
15 deposition?

16 A. Yes.

17 Q. Do you recall how many times  
18 you met, in person, with counsel that are  
19 defending you today?

20 A. Three times.

21 Q. And do you recall how long  
22 each of those meetings was?

23 A. Three to five hours; three  
24 occasions.

1 Q. Three occasions.

2 And were each of those  
3 occasions between three and five hours?

4 A. Yes.

5 Q. Did you have additional  
6 meetings with your counsel by phone?

7 A. No.

8 Q. So all of your preparation  
9 was in person?

10 A. Yes.

11 Q. I want to go back to this  
12 Exhibit-2 that's in front of you. And I  
13 want to turn back to, I believe it's the  
14 third page there -- actually, start at  
15 the second page at the very bottom, if  
16 you can.

17 Do you see there's a  
18 category there, Education, and underneath  
19 that it says, Northeastern University?

20 A. Yes.

21 Q. If you continue on to the  
22 fourth page, you can see there's  
23 additional educational fields as well.

24 A. Yes.

1 Q. Do you see that?

2 MR. CLUFF: The third page,  
3 please, Zach.

4 BY MR. CLUFF:

5 Q. And so your education  
6 appears to start at University of  
7 Colorado; is that right?

8 A. That's correct.

9 Q. And what year did you  
10 complete your degree at the University of  
11 Colorado?

12 A. 1992.

13 Q. And do you recall how long  
14 you were enrolled at the University of  
15 Colorado?

16 A. Four years, I believe.

17 Q. And did you attend the  
18 University of Colorado at Boulder, or any  
19 other specific school?

20 A. At Boulder.

21 Q. So CU Boulder?

22 A. CU Boulder.

23 Q. Is there any reason you  
24 chose a degree in environmental biology?

1 MS. MCCLURE: Objection to  
2 form.

3 THE WITNESS: It was my  
4 strength.

5 BY MR. CLUFF:

6 Q. If you move up in the  
7 education category, I see that you have a  
8 degree, a Master's of science from Regis  
9 University?

10 A. Correct.

11 Q. When did you obtain that  
12 degree?

13 A. 2007.

14 Q. Between 1992 and 2007, I  
15 would presume that you were employed,  
16 correct?

17 A. Correct.

18 Q. All right. And is there a  
19 reason why you chose a Master's in  
20 organizational leadership and  
21 development?

22 MS. MCCLURE: Objection to  
23 form.

24 THE WITNESS: No.



1 BY MR. CLUFF:

2 Q. Is there anything in your  
3 work experience that prompted you to seek  
4 out a Master's degree in that field?

5 A. I was working for Regis at  
6 the time and it was free.

7 Q. In what capacity were you  
8 working for Regis?

9 A. As a recruiter and assistant  
10 director of marketing, enrollment.

11 Q. Where is the Regis  
12 University campus located?

13 A. Denver.

14 Q. And is that, like, a  
15 physical campus, or is it more of an  
16 online campus?

17 A. It's a physical and online.

18 Q. Did you complete your degree  
19 at the physical location or online, or a  
20 combination of both?

21 A. A combination, I believe.

22 Q. And how long did it take you  
23 to complete your degree there?

24 MS. MCCLURE: Objection to

1 form.

2 THE WITNESS: Three or four  
3 years.

4 BY MR. CLUFF:

5 Q. Were you a full-time or  
6 part-time student?

7 A. I was a part-time.

8 Q. Did obtaining that Master's  
9 Degree further your career with Regis at  
10 all?

11 MS. MCCLURE: Objection to  
12 form.

13 THE WITNESS: I don't think  
14 so.

15 BY MR. CLUFF:

16 Q. You didn't receive any  
17 promotions or pay raises because of the  
18 Master's?

19 A. No.

20 Q. Now, if you look at the  
21 bottom of Page 2 and the top of Page 3,  
22 it looks like your next educational  
23 activity is the Master's from  
24 Northeastern.

1                   But I can tell you, from  
2   having looked at this online, that, for  
3   some reason, the printout cut out your  
4   time at Quantico with the FBI.

5                   Do you remember that?

6           A.     I do.

7           Q.     On the copy you have, either  
8   at the bottom of 2 or top of 3, why don't  
9   you write in what you did, just the place  
10   you were and the location at Quantico, so  
11   we can have that on the record?

12           MS. MCCLURE:   Where Quantico  
13           is?

14           MR. CLUFF:   No, not where  
15           Quantico is, just that she  
16           received some training at  
17           Quantico.

18           MS. MCCLURE:   So you want  
19           her to write with pen on this  
20           document and write the word  
21           "Quantico"?

22           MR. CLUFF:   Well, I want her  
23           to describe what she did at  
24           Quantico.

1 MS. MCCLURE: On the  
2 document or verbally?

3 MR. CLUFF: On the document.  
4 You can tell me verbally,  
5 but then I'd like you to make a  
6 note about it on the document just  
7 so we have an accurate exhibit.

8 Does that make sense?

9 MS. MCCLURE: So she can  
10 write she was at Quantico, if  
11 you'd like. But I'm not going to  
12 have her sit here and write on the  
13 document about her time at  
14 Quantico.

15 You can ask her verbally  
16 about that.

17 MR. CLUFF: I'm not asking  
18 her to write me a dissertation  
19 about where she was at and what  
20 she did. I just wanted, similar  
21 to how it says Northeastern,  
22 Master's of science, you can write  
23 Federal Bureau of Investigations,  
24 Quantico, and if you received any

1           certifications or training.

2           That's all I'm looking for, so  
3           that this document accurately  
4           reflects your training.

5                     Does that make sense?

6                     THE WITNESS: It makes  
7           sense.

8                     MS. MCCLURE: So, for the  
9           record, the witness has written,  
10          FBI, Quantico, VA, for Virginia,  
11          dash, diversion investigator, top  
12          secret clearance.

13       BY MR. CLUFF:

14                 Q.     So at some point in time,  
15       you went to Quantico, Virginia, correct?

16                 A.     Yes.

17                 Q.     And did you obtain any  
18       training in Quantico?

19                 A.     Yes.

20                 Q.     And who did you obtain that  
21       training from?

22                 A.     Individual? I don't recall.

23                 Q.     Did you receive training  
24       from an organization?

1 A. From DEA.

2 Q. But that was at the FBI  
3 headquarters in Quantico?

4 A. Correct.

5 MS. MCCLURE: Objection to  
6 form.

7 BY MR. CLUFF:

8 Q. And what time period was  
9 that?

10 A. 2004, for four months.

11 Q. And did you receive any  
12 certifications or degrees while you were  
13 there?

14 A. Just a diploma, I believe,  
15 for graduating from the training.

16 Q. And what was the training  
17 that you received the diploma for?

18 A. Diversion investigator.

19 Q. And that was for your work  
20 at the DEA?

21 A. Correct.

22 Q. Okay. So in terms of the  
23 timeline, the training you received at  
24 Quantico preceded the Master's you

1 received at Regis University; is that  
2 right?

3 A. No. The Master's was  
4 started, I believe, in 2001. Quantico  
5 was kind of in between. And then I  
6 completed the Master's around 2006/2007.

7 Q. Thank you for explaining  
8 that timeline. That's very helpful.

9 And at some point, moving to  
10 Page 2 now, at the bottom, there's the  
11 degree from Northeastern. And that's a  
12 Master's of science, regulatory affairs;  
13 is that correct?

14 A. Yes, that's correct.

15 Q. And when did you obtain that  
16 degree?

17 A. 2012.

18 Q. Is there any reason why you  
19 obtained that degree?

20 MS. MCCLURE: Objection to  
21 form.

22 THE WITNESS: I just wanted  
23 to make myself more knowledgeable  
24 about regulatory affairs.

1 BY MR. CLUFF:

2 Q. Why did you want to make  
3 yourself more knowledgeable about  
4 regulatory affairs?

5 A. So that maybe I could obtain  
6 a position in that area.

7 Q. "In that area" would be the  
8 area of regulatory affairs?

9 A. Correct.

10 Q. Was there a specific  
11 position you had your eye on?

12 MS. MCCLURE: Objection to  
13 form.

14 THE WITNESS: No.

15 BY MR. CLUFF:

16 Q. Was there any specific  
17 industry in which you were interested in  
18 joining?

19 MS. MCCLURE: Objection to  
20 form.

21 THE WITNESS:  
22 Pharmaceuticals.

23 BY MR. CLUFF:

24 Q. Why were you interested in



1 joining pharmaceuticals?

2 A. Because I had previous  
3 exposure with DEA.

4 Q. In your experience, did the  
5 Master's of science and regulatory  
6 affairs assist you in entering the  
7 pharmaceuticals industry?

8 MS. MCCLURE: Objection to  
9 form.

10 THE WITNESS: I don't know.

11 BY MR. CLUFF:

12 Q. In your work experience in  
13 the pharmaceutical industry, did your  
14 Master's degree make you more qualified  
15 or less qualified than your peers?

16 MS. MCCLURE: Objection to  
17 form.

18 THE WITNESS: I don't know  
19 what their qualifications were.

20 BY MR. CLUFF:

21 Q. I want to continue up this  
22 page and flip over to the first page.

23 We talked, again, earlier,  
24 there's a bold heading, Experience. And

1 if you start at the bottom of Page 1 and  
2 continue down to Page 2, it looks like  
3 that is a description of your work  
4 experience.

5 Does that look accurate?

6 MS. MCCLURE: Objection to  
7 form.

8 THE WITNESS: Yes.

9 BY MR. CLUFF:

10 Q. Okay. Let's start with the  
11 position at the bottom of Page 2. It's  
12 identified on that page as, Diversion  
13 investigator, Drug Enforcement  
14 Administration.

15 Do you see that on the page?

16 A. Yes.

17 Q. It's very faint on the copy,  
18 it looks like, but it appears that you  
19 worked there from 2004 to 2006?

20 A. Correct.

21 Q. Do you believe that's an  
22 accurate statement of your work history  
23 with the DEA?

24 A. Yes.

1 Q. Earlier, when we discussed  
2 your degree from CU Boulder, you said you  
3 believed you graduated in 1992; is that  
4 right?

5 A. Yes.

6 Q. Do you recall what work  
7 history or any positions you held from  
8 '92 to 2004?

9 A. Various clerical positions,  
10 Regis University as an online recruiter  
11 and assistant director, followed by DEA.

12 Q. The clerical positions, were  
13 those with Regis?

14 A. No.

15 Q. Those were with a different  
16 company?

17 A. Correct.

18 Q. What company was that?

19 MS. MCCLURE: Objection to  
20 form.

21 THE WITNESS: One was Up  
22 With People, and then a firm in  
23 Denver for meeting planning.

24 BY MR. CLUFF:

1           Q.     The company you mentioned,  
2     Up With People, do you recall the time  
3     period where you were with them?

4           A.     I believe '96 to '98.

5           Q.     Okay. And how about the  
6     firm in Denver that did the meeting  
7     planning?

8           A.     '98.

9           Q.     Do you recall what you were  
10    doing for employment prior to '96?

11          A.     I don't recall.

12          Q.     After 1998, do you recall  
13    what you were doing for employment?

14          A.     I went to Regis.

15          Q.     And is that when you were  
16    the online recruiter and assistant  
17    director?

18          A.     Correct.

19          Q.     And what year -- what years  
20    did you hold that position at Regis?

21          A.     Which positions? Just both  
22    positions?

23          Q.     I'm sorry. Is that two  
24    different positions?

1           A.       Two different positions.

2           Q.       Which one did you obtain  
3 first?

4           A.       The recruiting position.

5           Q.       And how long were you in  
6 recruiting?

7           A.       1999 to 2002, I think.

8           Q.       And then you also mentioned  
9 an assistant director position.

10          A.       Yes.

11          Q.       When did you become the  
12 assistant director?

13          A.       I believe 2002 to 2004.

14          Q.       And you left the assistant  
15 director position to join the DEA?

16          A.       Correct.

17          Q.       Did you go through an  
18 application process to join the DEA?

19          A.       Yes.

20          Q.       What was that application  
21 process like?

22                   MS. MCCLURE: Objection to  
23 form.

24                   THE WITNESS: Apply,

1 interview, background

2 investigation, going to Quantico.

3 BY MR. CLUFF:

4 Q. Do you remember who you  
5 interviewed with?

6 A. I don't recall.

7 Q. Do you recall if you had  
8 more than one interview, or multiple  
9 interviews?

10 A. I believe I had one  
11 interview.

12 Q. Where was the interview, if  
13 you recall?

14 A. Denver.

15 Q. You said a background  
16 investigation.

17 Do you have any recollection  
18 of who conducted the background  
19 investigation?

20 A. I do not.

21 Q. You also mentioned going to  
22 Quantico.

23 Was that part of the  
24 application process?

1           A.       That was part of the  
2       training after acceptance.

3           Q.       So you obtained the  
4       position, and then you went to Quantico  
5       to receive training; is that accurate?

6           A.       Correct.

7           Q.       Do you remember what field  
8       office of the DEA you joined when you  
9       became a diversion investigator?

10          A.       Los Angeles.

11          Q.       And where were you stationed  
12       while you worked for the DEA?

13          A.       Los Angeles.

14          Q.       Is that a correct  
15       terminology, "stationed," or is there a  
16       better terminology?

17          A.       That's fine.

18          Q.       Do you recall who you  
19       reported to in Los Angeles when you  
20       worked for the DEA?

21          A.       I do not.

22          Q.       Aside from the training at  
23       Quantico, did you receive any other  
24       training to conduct your job

1 responsibilities as a diversion  
2 investigator?

3 MS. MCCLURE: Objection to  
4 form.

5 THE WITNESS: Just what we  
6 were learning out in the field.

7 BY MR. CLUFF:

8 Q. During the four months at  
9 Quantico, what kind of training did you  
10 receive?

11 A. Audit training, computer  
12 training and CIC. We learned about the  
13 supply chain, closed system of  
14 diversion -- or closed system of supply  
15 chain. And the different classes of  
16 business.

17 Q. You mentioned audit  
18 training?

19 A. Yes.

20 Q. So aside from those  
21 trainings that you just mentioned, was  
22 there any other training you received at  
23 Quantico?

24 A. I don't recall.



1                   Q.     Do you recall the names of  
2     any of your instructors while you were at  
3     Quantico?

4                   A.     I do not.

5                   Q.     So you mentioned audit  
6     training.

7                             What kind of audit training  
8     did you get?

9                   A.     Going into a place of  
10    business and looking at records and  
11    inventories.

12                  Q.     And how did that relate to  
13    auditing?

14                  A.     Just making sure that the  
15    records lined up with pill counts.

16                  Q.     And why would you, as a DEA  
17    investigator, be auditing records and  
18    pill counts?

19                             MS. MCCLURE:  Objection to  
20    form.

21                             THE WITNESS:  That's just  
22    part of the position.

23    BY MR. CLUFF:

24                  Q.     Is there any regulation

1     that, as a DEA agent, you would have been  
2     enforcing or working under that would  
3     have required you to audit records and  
4     pill counts?

5                     MS. MCCLURE:  Objection to  
6                     form.

7                     THE WITNESS:  Just making  
8                     sure they're in compliance with  
9                     the regulations.

10    BY MR. CLUFF:

11                    Q.     Which regulations?

12                    A.     Whatever is outlined in 21  
13    C.F.R. Part 1300.

14                    Q.     Is that the group of  
15    regulations that you were enforcing as a  
16    DEA agent?

17                    A.     Correct.

18                    Q.     Are those also the  
19    regulations that the companies you would  
20    have been auditing were governed by?

21                    A.     Correct.

22                    Q.     Based on your experience --  
23    let me clarify.

24                    Based on your experience as

1 an investigator, would 21 C.F.R. 1300 be  
2 the group of regulations that governed  
3 the companies you were auditing?

4 A. Correct.

5 Q. You also -- did you -- when  
6 you were being trained on auditing, did  
7 you ever receive training about how to  
8 audit shipping records?

9 MS. MCCLURE: Objection to  
10 form.

11 THE WITNESS: I don't  
12 recall.

13 BY MR. CLUFF:

14 Q. Do you ever recall, as a DEA  
15 investigator, looking at shipping  
16 records?

17 A. I do not.

18 Q. Are you familiar with the  
19 term "ARCOS"?

20 A. Yes.

21 Q. What is your understanding  
22 of ARCOS?

23 A. ARCOS is purchases, made by  
24 registrants, of Schedule I and II and

1       III.

2                   Q.       And did you receive any  
3       training about ARCOS when you were a DEA  
4       investigator?

5                   A.       I don't recall.

6                   Q.       You mentioned computer  
7       training while you were at Quantico.

8                           What kind of training did  
9       you receive there?

10                  A.       That was NCIC, the National  
11       Crime Database.

12                  Q.       So the computer training was  
13       about NCIC, right?

14                  A.       Correct.

15                  Q.       And what training did you  
16       receive about NCIC?

17                  A.       Researching targets.

18                  Q.       What do you mean when you  
19       say "targets"?

20                  A.       Researching possible  
21       criminal activity.

22                  Q.       Who would the criminals be  
23       that you were targeting?

24                           MS. MCCLURE:   Objection to

1 form.

2 THE WITNESS: Various  
3 backgrounds.

4 BY MR. CLUFF:

5 Q. What kind of backgrounds?

6 A. Marijuana, cocaine  
7 traffickers; drug traffickers.

8 Q. You talked about being  
9 trained on the classes of businesses?

10 A. Yes.

11 Q. What kinds of classes of  
12 businesses were you trained about?

13 A. Importers, exporters,  
14 chemical manufacturers, distributors,  
15 pharmacies.

16 Q. How about just, like,  
17 manufacturers in general that don't  
18 necessarily make chemicals?

19 Does that make sense?

20 A. Yes.

21 Yes.

22 Q. So you mentioned importers,  
23 exporters, chemical manufacturers,  
24 distributors and pharmacies. And we also

1 mentioned manufacturers, you and I.

2 Were doctors ever a part of  
3 the classes of businesses you were  
4 trained on?

5 A. No.

6 Q. I want to circle back to the  
7 NCIC training. You mentioned targets.

8 Were importers ever targets  
9 that you were trained about?

10 A. I don't recall.

11 Q. Were exporters ever targets  
12 that you were trained about?

13 A. I don't recall.

14 Q. How about chemical  
15 manufacturers, were those targets you  
16 were trained about?

17 A. Possibly, yes.

18 Q. What training did you  
19 receive about chemical manufacturers as  
20 targets?

21 A. If they were compliant with  
22 List 1 and List 2 regulations.

23 Q. What are the List 1 and List  
24 2 regulations for chemical manufacturers?

1           A.       I don't remember.

2           Q.       Do you have a general  
3       recollection of why you would be  
4       targeting chemical manufacturers for  
5       compliance with List 1 and List 2  
6       regulations?

7                   MS. MCCLURE:   Objection to  
8       form.

9                   THE WITNESS:   Maybe one  
10       chemical was pseudoephedrine at  
11       the time.

12   BY MR. CLUFF:

13           Q.       So why would you be  
14       targeting chemical manufacturers  
15       regarding, for example, pseudoephedrine?

16           A.       Because meth labs were main  
17       targets at that time.

18           Q.       And so why would you be  
19       targeting chemical manufacturers about  
20       pseudoephedrine?

21                   MS. MCCLURE:   Objection to  
22       form.

23                   THE WITNESS:   Because it's a  
24       key ingredient used to make meth.

1 BY MR. CLUFF:

2 Q. So were you trying to ensure  
3 that they complied with the regulations  
4 governing the manufacture of Sudafed?

5 MS. MCCLURE: Objection to  
6 form.

7 THE WITNESS: Correct.

8 BY MR. CLUFF:

9 Q. How about wholesale  
10 distributors, were those ever targets  
11 that you received training about?

12 A. Generally.

13 Q. What was the general  
14 training you received about wholesale  
15 distributors?

16 A. Just regulations that  
17 pertained to them.

18 Q. Why were you being trained  
19 about the regulations pertaining to  
20 wholesale distributors as targets?

21 MS. MCCLURE: Objection to  
22 form.

23 THE WITNESS: They weren't  
24 necessarily targets, but it was



1                   part of our auditing function.

2       BY MR. CLUFF:

3                   Q.       What was the auditing  
4       function related to wholesale  
5       distributors?

6                   A.       Records, pill counts, make  
7       sure things line up.

8                   Q.       What kind of records are you  
9       talking about?

10                  A.       Inventories. Are the  
11       Schedule IIs separated from Schedule III,  
12       IV and Vs? Security.

13                  Q.       How about shipping records?

14                             MS. MCCLURE: Objection to  
15       form. Asked and answered.

16                             THE WITNESS: I don't  
17       recall.

18       BY MR. CLUFF:

19                  Q.       How about ARCOS data about  
20       wholesale distributors, did you receive  
21       training about that?

22                             MS. MCCLURE: Objection to  
23       form. Asked and answered.

24                             THE WITNESS: In the field.

1 BY MR. CLUFF:

2 Q. But not at Quantico?

3 A. I don't recall, but I don't  
4 think so.

5 Q. Did you, when you were at  
6 Quantico, receive training about  
7 suspicious order reports from the  
8 wholesale distributors?

9 A. No.

10 Q. Did you receive training  
11 about suspicious order reports from  
12 wholesale distributors while you were in  
13 the field?

14 A. No.

15 Q. Was that not part of your  
16 job responsibilities?

17 MS. MCCLURE: Objection to  
18 form.

19 THE WITNESS: I mean, it's a  
20 regulation, so it was part of it,  
21 I guess.

22 BY MR. CLUFF:

23 Q. You just personally don't  
24 recall receiving training about it?

1           A.       That's correct.

2           Q.       Do you recall what training  
3       you received about manufacturers?

4           A.       I do not.

5           Q.       Do you have any general  
6       recollection?

7                   MS. MCCLURE:   Objection to  
8       form.   Asked and answered.

9                   THE WITNESS:   Probably  
10       records and for audits, and that's  
11       it.

12       BY MR. CLUFF:

13           Q.       Do you recall what kind of  
14       training you received about the records  
15       to audits for manufacturers?

16           A.       Similar, probably, to  
17       distributors.

18           Q.       So that would be -- I  
19       remember -- or if you -- strike all that.

20                   You mentioned records for  
21       pill counts, correct?   Would that have  
22       applied to the manufacturers?

23           A.       No.

24           Q.       How about, like, inventory

1 training, would that have applied to  
2 manufacturers?

3 A. Inventory.

4 Q. Separation of C-II from  
5 C-III, IV and V, would that apply to  
6 manufacturers?

7 A. I believe so, yes.

8 Q. How about suspicious order  
9 reports for manufacturers?

10 A. No.

11 Q. And did you receive training  
12 on any of those subjects in the field,  
13 aside from when you were at Quantico?

14 MS. MCCLURE: Objection to  
15 form.

16 THE WITNESS: Not training,  
17 per se, we just went out in the  
18 field and conducted those audits.

19 BY MR. CLUFF:

20 Q. You also mentioned training  
21 about pharmacies.

22 What training did you  
23 receive about pharmacies?

24 A. Again, records.

1           Q.     What training about records  
2     did you receive?

3           A.     Prescriptions, where they  
4     separated from the -- the IIs were  
5     separated from the III, IV and Vs, by  
6     inventory.

7           Q.     What about suspicious order  
8     reports, did you receive training about  
9     that in relation to pharmacies?

10          A.     No.

11          Q.     Looking at Exhibit-2 again,  
12     at the top there, it says -- you write,  
13     Lead -- I'm sorry, would you have written  
14     this LinkedIn profile?

15          A.     Yes.

16          Q.     So you write, Lead  
17     investigator on civil and criminal cases  
18     involving pharmaceutical drugs.

19                 Do you recall what civil  
20     cases you worked on that involved  
21     pharmaceutical drugs?

22          A.     I do not.

23          Q.     Do you recall what criminal  
24     cases -- I'll caution you that I

1 understand that there is a law  
2 enforcement privilege. So I'm going to  
3 ask you some questions about this  
4 "criminal cases" language, but I don't  
5 want you to divulge anything that would  
6 compromise an ongoing criminal  
7 investigation.

8 Do you understand?

9 A. I understand.

10 Q. Do you recall any criminal  
11 cases that you worked on involving  
12 pharmaceutical drugs?

13 A. Maybe a doctor.

14 Q. Do you recall, generally,  
15 what the matter under investigation was?

16 A. That she was writing  
17 fraudulent prescriptions or prescriptions  
18 without a medical purpose.

19 Q. Would that have been in Los  
20 Angeles?

21 A. Yes.

22 Q. Are you familiar with the  
23 term "pill mill"?

24 A. Yes.

1           Q.     Do you know if this doctor  
2     was part of a pill mill?

3           A.     I don't think so, but I  
4     don't recall.

5           Q.     Are you familiar with a  
6     criminal investigation about a pill mill  
7     in Los Angeles ever?

8           A.     No.

9           Q.     Going back to civil cases,  
10    do you recall being a lead investigator  
11    on any civil cases involving a  
12    pharmaceutical manufacturer?

13          A.     No.

14          Q.     How about a wholesale  
15    distributor?

16          A.     No.

17          Q.     Do you recall any criminal  
18    cases about pharmaceutical manufacturers?

19                   MS. MCCLURE:  Objection.

20                   Asked and answered.

21                   THE WITNESS:  A chemical  
22    manufacturer.

23    BY MR. CLUFF:

24          Q.     What chemical manufacturer?

1 A. I don't recall.

2 Q. What was the general subject  
3 matter under investigation?

4 A. Recordkeeping.

5 Q. And what was the  
6 recordkeeping violation?

7 A. They didn't have certain  
8 information on their records.

9 Q. Can you describe what kind  
10 of information they had -- were missing?

11 A. I don't remember.

12 Q. Do you recall if it was  
13 about a specific drug?

14 A. I don't remember that.

15 Q. You continue here on  
16 Exhibit-2 and say that you conducted  
17 regulatory audits of importers,  
18 exporters, distributors, and  
19 manufacturers of controlled substances;  
20 is that correct?

21 A. That's correct.

22 Q. We previously talked about  
23 the training you received about  
24 importers, exporters, distributors and



1 manufacturers.

2 Would you have been using  
3 that training when you conducted these  
4 regulatory audits?

5 A. Correct.

6 Q. Focusing on distributors,  
7 what kind of regulatory audits would you  
8 have conducted about distributors?

9 A. Just that they were in  
10 compliance with the regulations.

11 Q. What regulations?

12 A. The 21 C.F.R. 1300, Part  
13 1300.

14 Q. Do you recall which specific  
15 recollections you would have been  
16 investigating under Part 1300?

17 A. Recordkeeping, security.

18 Q. Anything else?

19 A. Pill counts.

20 Q. How about suspicious order  
21 monitoring?

22 A. No.

23 Q. So you did not audit, in  
24 your time at the DEA, suspicious order

1 monitoring?

2 A. No.

3 Q. Was there somebody in the  
4 Los Angeles office that you worked with  
5 who was responsible for auditing  
6 suspicious order reporting?

7 A. I don't recall.

8 Q. Do you recall the identity  
9 of any distributors that you audited  
10 while you were with the DEA?

11 A. Cardinal Health and  
12 AmerisourceBergen.

13 Q. Do you recall the time  
14 period when you audited Cardinal Health?

15 A. I don't recall. Within  
16 those two years.

17 Q. Do you recall if it was the  
18 beginning, middle or end, generally, of  
19 your time with the DEA?

20 A. I'd say middle.

21 Q. How about AmerisourceBergen,  
22 do you recall when you audited  
23 AmerisourceBergen?

24 A. I don't recall.

1           Q.     If you had to give me an  
2     estimate, would you estimate that it was  
3     the beginning, middle or end of your time  
4     with the DEA that you audited  
5     AmerisourceBergen?

6           A.     I'd say middle.

7           Q.     Do you recall what you were  
8     auditing when you audited Cardinal  
9     Health?

10          A.     Recordkeeping, pill counts,  
11     security.

12          Q.     Do you recall the outcome of  
13     the audit against Cardinal Health?

14          A.     I do not.

15          Q.     Based on your two years of  
16     work with the Drug Enforcement  
17     Administration, do you have a general  
18     recollection if the audit against  
19     Cardinal Health was a good audit or a bad  
20     audit?

21                   MS. MCCLURE:   Objection.

22                   MR. MCBRIDE:   Objection.

23                   MS. MCCLURE:   Asked and  
24                   answered.   Assumes facts not in

1 evidence. Foundation.

2 MR. CLUFF: Hold on a  
3 second.

4 You guys can object, but  
5 let's try to not talk over each  
6 other. If we're going to do  
7 that -- I'll also note the  
8 deposition protocol, if Shannon  
9 objects, her objection is  
10 preserved for everybody.

11 MR. MCBRIDE: I understand.

12 I --

13 MR. CLUFF: I'm not going to  
14 argue with you about it. Let's  
15 just all try to -- let's make sure  
16 we don't talk over each other.

17 I'm going ask my question  
18 again, let's let our counsel  
19 object, and then we'll get an  
20 answer.

21 BY MR. CLUFF:

22 Q. Based on your two years of  
23 working at the DEA, do you recall if the  
24 outcome of the audit against Cardinal

1 Health was a good audit or bad audit?

2 MS. MCCLURE: Same  
3 objection. Form. Assumes facts.  
4 Foundation.

5 THE WITNESS: I don't  
6 recall.

7 BY MR. CLUFF:

8 Q. Do you recall the name of  
9 any individuals you interacted with at  
10 Cardinal Health during that audit?

11 A. No.

12 Q. How about AmerisourceBergen,  
13 do you recall the subject matter of the  
14 audit when you conducted the audit of  
15 AmerisourceBergen?

16 A. A regulatory audit.

17 Q. And what was -- what was the  
18 regulatory audit?

19 A. Records, security, pill  
20 counts.

21 Q. I forgot to ask a question.  
22 Going back to the Cardinal  
23 Health audit, do you recall the  
24 location -- I'll back up.

1                   Did you audit a distribution  
2     center?

3                   A.     Yes.

4                   Q.     Okay. Do you recall the  
5     location of that distribution center?

6                   A.     No.

7                   Q.     Do you recall if it was  
8     somewhere in the general Los Angeles  
9     area?

10                  A.     Yes.

11                  Q.     Okay. So AmerisourceBergen,  
12     just to re-clarify, do you recall what  
13     the subject matter of that regulatory  
14     audit was again?

15                  A.     Just --

16                             MS. MCCLURE: Objection.  
17     Asked and answered.

18                             THE WITNESS: Just  
19     regulatory assignment.

20     BY MR. CLUFF:

21                  Q.     Was this, like, a routine  
22     part of your job as a drug enforcement or  
23     diversion investigator?

24                             MS. MCCLURE: Objection to

1 form.

2 THE WITNESS: It was a part  
3 of our audit plan for the year.

4 BY MR. CLUFF:

5 Q. And do you recall the  
6 outcome of the audit of  
7 AmerisourceBergen?

8 A. It was clear.

9 Q. Clear how?

10 A. There were no findings that  
11 I recall.

12 Q. You previously told me that  
13 you don't recall the findings of the  
14 Cardinal Health audit.

15 Is there a reason you recall  
16 the Amerisource findings as opposed to  
17 the Cardinal Health findings?

18 MS. MCCLURE: Objection to  
19 form.

20 THE WITNESS: No.

21 BY MR. CLUFF:

22 Q. Did you do anything to  
23 refresh your recollection regarding the  
24 findings of the AmerisourceBergen

1       audit --

2                               MS. MCCLURE:  Objection to  
3                               form.

4       BY MR. CLUFF:

5               Q.       -- before today's  
6       deposition?

7               A.       No.

8               Q.       Do you recall the name of  
9       any people you spoke with at  
10      AmerisourceBergen during that audit?

11              A.       The compliance manager,  
12      Peter Knipe.

13              Q.       Did that audit occur at an  
14      AmerisourceBergen distribution center?

15              A.       Yes.

16              Q.       Was Peter Knipe the head of  
17      that distribution center?

18                           MS. MCCLURE:  Objection to  
19                           form.

20                           THE WITNESS:  He's the  
21                           compliance manager.

22       BY MR. CLUFF:

23              Q.       What is a compliance  
24      manager?



1           A.       They make sure that the DC  
2       is in compliance with the regulations.

3           Q.       Does he work at the DC?

4           A.       He does.

5           Q.       I want to just clarify. You  
6       used the term "DC."

7                   Does that stand for  
8       distribution center?

9           A.       Yes.

10          Q.       Okay. Thank you.

11                   Did you speak with anybody  
12       else at AmerisourceBergen during that  
13       audit?

14                   MS. MCCLURE: Objection to  
15       form.

16                   THE WITNESS: Not that I  
17       recall.

18       BY MR. CLUFF:

19          Q.       Were you provided any  
20       records by AmerisourceBergen during that  
21       audit?

22          A.       I don't recall.

23          Q.       Do you recall looking at  
24       shipping records while you were

1 conducting the audit of  
2 AmerisourceBergen?

3 MS. MCCLURE: Objection.  
4 Asked and answered.

5 THE WITNESS: I don't  
6 recall.

7 BY MR. CLUFF:

8 Q. Do you recall looking at any  
9 suspicious order reports when you  
10 conducted the audit of AmerisourceBergen?

11 A. No.

12 Q. Do you recall looking at any  
13 excessive purchase orders when you  
14 conducted the audit of AmerisourceBergen?

15 MS. MCCLURE: Objection to  
16 form.

17 THE WITNESS: I don't  
18 recall.

19 BY MR. CLUFF:

20 Q. Do you recall discussing  
21 AmerisourceBergen's suspicious order  
22 monitoring policies during that audit?

23 A. I don't recall.

24 Q. During your time as a Drug

1 Enforcement Administration diversion  
2 investigator, did you ever form an  
3 understanding of the suspicious order  
4 monitoring policies or procedures of any  
5 wholesale distributors?

6 MS. MCCLURE: Objection to  
7 form.

8 THE WITNESS: Clarify,  
9 please. What?

10 BY MR. CLUFF:

11 Q. Sure.

12 During the two years that  
13 you worked for the DEA as a drug  
14 investigator, did you form an  
15 understanding of the suspicious order  
16 monitoring policies or procedures of any  
17 wholesale distributor?

18 MS. MCCLURE: Objection to  
19 form.

20 THE WITNESS: No.

21 BY MR. CLUFF:

22 Q. Did you ever conduct any  
23 audits, that you can recall, of McKesson?

24 MR. KELLY: Objection to

1 form.

2 THE WITNESS: I don't

3 recall.

4 BY MR. CLUFF:

5 Q. How about manufacturers of  
6 controlled substances; do you recall  
7 conducting audits of any manufacturers of  
8 controlled substances?

9 A. I don't recall. Just the  
10 chemical manufacturers.

11 Q. You continue on Exhibit-2,  
12 and say, And manufacturers of -- of  
13 manufacturers and distributors of List 1  
14 chemicals.

15 Is that the chemicals like  
16 pseudoephedrine that you were talking  
17 about earlier?

18 A. Yes.

19 Q. That's a different class of  
20 chemicals from, say, opioids, correct?

21 A. Correct.

22 Q. All right. Opioids are not  
23 List 1 chemicals, right?

24 A. Correct.

1           Q.     In your experience as an  
2     employee of the Drug Enforcement  
3     Administration, was there a difference  
4     between a listed chemical and  
5     pharmaceutical drugs like opioids?

6                     MS. MCCLURE:  Objection to  
7                     form.

8                     THE WITNESS:  Yes.

9     BY MR. CLUFF:

10           Q.    Did regulations about List 1  
11   chemicals apply to opioids?

12                    MS. MCCLURE:  Objection to  
13                    form.

14                    THE WITNESS:  No.

15   BY MR. CLUFF:

16           Q.    So they were different  
17   regulations?

18           A.    I believe so.

19           Q.    Were they subject to  
20   different standards?

21                    MS. MCCLURE:  Objection to  
22                    form.

23                    THE WITNESS:  Different  
24   regulations, yes.

1 BY MR. CLUFF:

2 Q. So regulations that may be  
3 applied to List 1 chemicals did not apply  
4 to pharmaceutical drugs like opioids,  
5 correct?

6 A. Correct.

7 Q. All right. Are you aware of  
8 the DEA ever issuing guidance to  
9 manufacturers or distributors about List  
10 1 chemicals?

11 MS. MCCLURE: Objection to  
12 form.

13 THE WITNESS: Not while I  
14 was there.

15 BY MR. CLUFF:

16 Q. You continue in Exhibit-2,  
17 and you say that you also analyzed  
18 pharmaceutical records to detect  
19 regulatory and criminal law violations.

20 Do you see that?

21 A. I do.

22 Q. What would be an example of  
23 a regulatory violation that you analyzed  
24 from pharmaceutical records?

1           A.     If they didn't have certain  
2     items on the record. So, for example, a  
3     prescription might be missing the doctor  
4     and the DEA number.

5           Q.     So you said "certain items  
6     on the record."

7                     Is the record that you're  
8     referring to there the prescription?

9           A.     Prescription, for example.

10          Q.     So one example would be, to  
11     paraphrase your testimony, an incomplete  
12     prescription?

13                     MS. MCCLURE: Objection to  
14     form.

15                     THE WITNESS: Correct.

16     BY MR. CLUFF:

17          Q.     Are there any other examples  
18     of regulatory violations that you  
19     analyzed from pharmaceutical records?

20          A.     If they were stored  
21     properly.

22          Q.     How about ARCOS data?  
23     That's a pharmaceutical record, correct?

24                     MS. MCCLURE: Objection to

1 form.

2 THE WITNESS: Yes.

3 BY MR. CLUFF:

4 Q. Did you ever analyze ARCOS  
5 data to identify regulatory violations?

6 MS. MCCLURE: Objection to  
7 form.

8 THE WITNESS: Vaguely  
9 remember, yes.

10 BY MR. CLUFF:

11 Q. What would that analysis  
12 have been?

13 A. Just looking at the Schedule  
14 Is, IIs, IIIs.

15 Q. What were you doing when you  
16 looked at the Schedule Is, IIs and IIIs?

17 A. Who the supplier was.

18 Q. When you say "supplier," do  
19 you mean manufacturers or distributors?

20 MS. MCCLURE: Objection to  
21 the form.

22 THE WITNESS:  
23 Manufacturer -- well, I don't  
24 remember. Distributors and



1 manufacturers.

2 BY MR. CLUFF:

3 Q. How about pharmacies?

4 A. I don't recall.

5 Q. So you do recall analyzing  
6 ARCOS data related to manufacturers and  
7 distributors?

8 MS. MCCLURE: Objection to  
9 form. Misstates the witness's  
10 prior testimony.

11 THE WITNESS: I do.

12 BY MR. CLUFF:

13 Q. What do you recall looking  
14 at when you reviewed the ARCOS data?

15 A. Who was ordering, what they  
16 were ordering, quantities.

17 Q. Why were you looking at that  
18 information?

19 A. Just as part of the  
20 regulatory process that we went through.

21 Q. What do you mean by that?

22 MS. MCCLURE: Objection to  
23 form.

24 THE WITNESS: Being able to

1 pull those records and just look  
2 at them and analyze the pattern.

3 BY MR. CLUFF:

4 Q. Why were you analyzing  
5 patterns from ARCOS data?

6 A. Just to see if there were  
7 any spikes.

8 Q. Why were you looking at  
9 spikes?

10 A. Well, just to see if the  
11 patterns were consistent; if there were  
12 spikes, there were spikes.

13 Q. Is there any particular  
14 reason why you were looking at spikes?

15 MS. MCCLURE: Objection to  
16 form.

17 THE WITNESS: Just as a note  
18 to see if it deviated from a  
19 regular pattern.

20 BY MR. CLUFF:

21 Q. What does deviating from a  
22 regular pattern indicate, based on your  
23 experience as a DEA investigator?

24 MS. MCCLURE: Objection to

1 form.

2 THE WITNESS: Just that they  
3 might have had a  
4 larger-than-normal shipment.

5 BY MR. CLUFF:

6 Q. Did it ever indicate that  
7 there was potential diversion happening?

8 MS. MCCLURE: Objection to  
9 form.

10 THE WITNESS: No.

11 BY MR. CLUFF:

12 Q. Never?

13 A. Not that I recall.

14 Q. So spikes in ordering  
15 patterns, based on your experience at the  
16 DEA, did not indicate potential  
17 diversion?

18 MS. MCCLURE: Objection to  
19 form.

20 THE WITNESS: It may have,  
21 it may not have.

22 BY MR. CLUFF:

23 Q. Okay. So it may have  
24 indicated potential diversion?

1 MS. MCCLURE: Objection to  
2 form. Asked and answered.  
3 Misstates the witness's prior  
4 testimony.

5 THE WITNESS: We don't know  
6 that just looking at that order.

7 BY MR. CLUFF:

8 Q. ARCOS data is reported by  
9 the companies who engage in those  
10 transactions, correct?

11 A. Yes.

12 Q. So, for example, if  
13 Amerisource sells an order to a pharmacy,  
14 as an example, they report that  
15 transaction through the ARCOS process?

16 MS. MCCLURE: Objection to  
17 form.

18 THE WITNESS: I believe so.

19 BY MR. CLUFF:

20 Q. So the data you were  
21 analyzing came from the companies that  
22 you were investigating or auditing?

23 MS. MCCLURE: Objection to  
24 form.

1 THE WITNESS: It came from  
2 the ARCOS database.

3 BY MR. CLUFF:

4 Q. And it was put into the  
5 ARCOS database by, for example,  
6 registrants, correct?

7 MS. MCCLURE: Objection to  
8 form.

9 THE WITNESS: Correct.

10 BY MR. CLUFF:

11 Q. So when you, as a DEA  
12 investigator, were analyzing the ARCOS  
13 data to identify spikes and changes in  
14 the ordering pattern, you would agree  
15 that the companies who supplied that data  
16 could have done the same analysis,  
17 correct?

18 MS. MCCLURE: Objection to  
19 form.

20 THE WITNESS: I don't know  
21 what their process was.

22 BY MR. CLUFF:

23 Q. But the data that you were  
24 analyzing came from the registrants,

1 correct?

2 MS. MCCLURE: Objection to  
3 form. Asked and answered.

4 THE WITNESS: Correct.

5 MR. CLUFF: Zach, can you  
6 put 2 back up, please?

7 BY MR. CLUFF:

8 Q. Going back to the  
9 pharmaceutical records that you  
10 identified there in Exhibit-2.

11 Did you ever -- would you  
12 consider to be -- sorry, strike that.

13 Are you familiar with the  
14 term "suspicious order report"?

15 A. As a diversion investigator?

16 Q. Yes.

17 A. No.

18 Q. You said you're familiar --  
19 let's jump down.

20 Do you see that first bullet  
21 point there? It says, Developed thorough  
22 knowledge of Code of Federal Regulations.

23 A. Uh-huh.

24 Q. Do you see that?

1                   Are you aware of a federal  
2   regulation that requires registrants to  
3   identify and report suspicious orders of  
4   controlled substances?

5                   A.     There is a regulation --  
6                   MS. MCCLURE:  Objection to  
7                   form.

8                   You may answer.

9   BY MR. CLUFF:

10                  Q.     Let me ask you again.

11                  MR. CLUFF:  Shannon, you can  
12                  assert your objection so we have a  
13                  clear record.

14   BY MR. CLUFF:

15                  Q.     Are you aware of a federal  
16   regulation that requires registrants to  
17   identify and report suspicious orders of  
18   controlled substances?

19                  MS. MCCLURE:  Objection to  
20                  form.

21                  THE WITNESS:  I'm aware of a  
22                  regulation that states that  
23                  registrants need to put policies  
24                  and procedures in place to guard

1           against suspicious order  
2           monitoring.

3                   MS. MCCLURE:   Sterling, when  
4           you reach a point in the next  
5           minute or so, we'd like to take a  
6           break.

7                   MR. CLUFF:    Sure.  I have  
8           just a few questions here.

9   BY MR. CLUFF:

10           Q.     I want to jump ahead.  
11                   You worked at  
12   AmerisourceBergen as an investigator for  
13   approximately five years, correct?

14           A.     Correct.

15           Q.     Did you gain any  
16   familiarity, or additional familiarity,  
17   during that time, with ARCOS data?

18                   MS. MCCLURE:  Objection to  
19           form.

20                   THE WITNESS:  No.

21                   MR. CLUFF:   Let's take a  
22           break.

23                   VIDEO TECHNICIAN:  Off the  
24           record at 11:01 a.m.





1 A. Ed Hazewski.

2 Q. Do you recall why Mr.

3 Hazewski was no longer your trainer?

4 MS. MCCLURE: Objection to

5 form.

6 THE WITNESS: No. I believe

7 he might have gotten a different

8 position.

9 BY MR. CLUFF:

10 Q. What's that recollection

11 based on?

12 MS. MCCLURE: Objection to

13 form.

14 THE WITNESS: Just that he

15 had moved on to another position.

16 BY MR. CLUFF:

17 Q. Did you find that transition

18 to be disconcerting as an employee at

19 AmerisourceBergen?

20 MS. MCCLURE: Objection to

21 form.

22 THE WITNESS: No. Moves

23 happen all the time.

24 BY MR. CLUFF:

1           Q.     Do you recall filling out a  
2     survey that was disseminated by David May  
3     in 2015?

4           A.     I don't know what you're  
5     talking about.

6           Q.     If I use the term  
7     "engagement survey," does that refresh  
8     your recollection?

9           A.     That's company-wide.

10          Q.     What was the engagement  
11     survey, do you recall?

12          A.     To outline what we were  
13     doing as a unit and what our opinions  
14     were on that.

15          Q.     When you say "as a unit,"  
16     what unit are you referring to?

17          A.     The diversion control team.

18          Q.     And so the engagement survey  
19     was a tool to outline what the diversion  
20     control team was doing and your opinions  
21     on that course of action?

22                   MS. MCCLURE:  Objection to  
23     form.

24                   THE WITNESS:  From what I

1           can recall.

2       BY MR. CLUFF:

3           Q.       Okay. Do you recall  
4       creating a document that you discussed  
5       with David May about the engagement  
6       survey?

7           A.       No.

8           Q.       If I showed you a copy of a  
9       document that appears to be talking  
10      points, would that refresh your  
11      recollection?

12                   MS. MCCLURE: Objection to  
13      form.

14                   THE WITNESS: It might.

15           MR. CLUFF: I'd like to mark  
16      as Exhibit-3 a copy of an e-mail  
17      and an attachment, both of which  
18      are marked confidential and  
19      subject to the protective order.  
20      I've combined them into one  
21      document to preserve the unity of  
22      the family. The Bates numbers are  
23      ABDCMDL00296978, that's the  
24      e-mail. The attachment begins at

1 ABDCMDL00296979, and ends with  
2 981.

3 - - -

4 (Whereupon,  
5 AmerisourceBergen-Garcia  
6 Exhibit-3, ABDCMDL00296978-981,  
7 was marked for identification.)

8 - - -

9 BY MR. CLUFF:

10 Q. Go ahead and take a moment  
11 and review that.

12 And we're going to talk  
13 about this document a little bit later  
14 today, but if you look on the last page,  
15 there's a letter -- Number 2, CSRA  
16 department. So I'm going to ask you a  
17 few questions about that.

18 So you can review the whole  
19 thing if you want, but if want to start  
20 there and let me know if you want to  
21 proceed about that, then you let me know.

22 A. I'd like to read this whole  
23 document.

24 Q. It's your prerogative.

1                   A.       Okay.

2                   Q.       Why don't we start at the  
3       first page of this document.   Since  
4       you've had a chance to review the  
5       entirety of the document, let's just talk  
6       about it while we're here.

7                             Do you see at the top  
8       there's a "from" line, it says, Garcia,  
9       Elizabeth?

10                  A.       Yes.

11                  Q.       So would you agree with me  
12       that this is an e-mail that you would  
13       have sent?

14                  A.       Yes.

15                  Q.       That it came from you?

16                  A.       Yes.

17                  Q.       We had a comment on the  
18       break that some people down at the other  
19       end of the table are having a hard time  
20       hearing you and I, so they politely asked  
21       me if we could both speak up.   You can  
22       talk to them later, I'm just the  
23       messenger.

24                             If you go down, there's a

1 line that says, To: May, David.

2 Do you know who David May  
3 is?

4 A. David May? Yes.

5 Q. Who is he?

6 A. He is the vice president of  
7 diversion control and security, I  
8 believe.

9 Q. Did you report directly to  
10 him in November of 2015?

11 A. No.

12 Q. Who reported to him, if you  
13 know?

14 A. Eric Cherveney and Sharon  
15 Hartman, I believe.

16 Q. Who are Eric Cherveney and  
17 Sharon Hartman?

18 A. Eric Cherveney is the  
19 director of the diversion control team.  
20 And Sharon Hartman is the pharmaceutical  
21 compliance director.

22 Q. Did you report to Eric  
23 Cherveney in November of 2015?

24 A. Yes, I believe.

1           Q.     And prior to the time, just  
2     for a clear understanding, that you  
3     reported to Eric Cherveney, you reported  
4     to Ed Hazewski; is that correct?

5           A.     Prior to, yes.

6           Q.     Do you see the subject, it  
7     says, Dave, talking points\_engagement  
8     survey2.docx?

9           A.     Yes.

10          Q.     And if you look down on the  
11     next line, it says, Attachments, Dave  
12     talking points\_engagement survey 2.docx?

13          A.     Yes.

14          Q.     Do you have an  
15     understanding, looking at this e-mail and  
16     having reviewed the attachment, whether  
17     these are talking points that you would  
18     have drafted to discuss with David May?

19                 MS. MCCLURE:   Objection to  
20     form.

21                 THE WITNESS:   He asked the  
22     team, during a team call, I  
23     believe, for talking points.

24     BY MR. CLUFF:



1           Q.     So David May asked the team  
2     for talking points during a call; is that  
3     correct?

4           A.     Correct.

5           Q.     And what is the team you're  
6     describing?

7           A.     The diversion control team.

8           Q.     And you're a member of the  
9     diversion control team?

10          A.     I was.

11                   MS. MCCLURE:  Objection to  
12     form.

13   BY MR. CLUFF:

14          Q.     Okay.  In the subject and  
15     the attachments, there's a reference to  
16     engagement survey 2.

17                   Do you recall what the  
18     engagement survey was?

19          A.     I believe it was a  
20     company-wide survey to kind of see what  
21     people's thoughts were.

22          Q.     And when you say  
23     "company-wide," do you mean all of  
24     AmerisourceBergen?

1 MS. MCCLURE: Objection to  
2 form.

3 THE WITNESS: From what I  
4 recall.

5 BY MR. CLUFF:

6 Q. And then the numeral 2, or  
7 the number 2 at the end of the subject  
8 and the attachment, do you have a  
9 recollection of what that Number 2 stands  
10 for?

11 A. I do not.

12 Q. Is it possible this was a  
13 second version of this document?

14 MS. MCCLURE: Objection to  
15 form. Asked and answered.

16 THE WITNESS: It's possible.

17 BY MR. CLUFF:

18 Q. Where would you have saved a  
19 document like this when you were creating  
20 it?

21 MS. MCCLURE: Objection to  
22 form. Assumes facts not in  
23 evidence.

24 THE WITNESS: Probably on my

1           hard drive.

2       BY MR. CLUFF:

3           Q.     Please turn the page.

4                   Do you see at the top there  
5   it says, Dave-engagement survey.

6                   And that line is underlined?

7           A.     Yes.

8           Q.     So -- and then underneath  
9   that, can you see there's very faint  
10   text? There's two little subparagraphs,  
11   and then there's a number after each one.

12                   Can you see that?

13          A.     Barely, yes.

14          Q.     Yeah. It's kind of easier  
15   to see on the screen, or maybe on the  
16   paper in front of you, whichever one is  
17   better.

18                   MR. CLUFF: Maybe if you  
19   shrink it down a little, Zach, so  
20   it's not quite as pixilated.

21                   Didn't get much better, I'm  
22   sorry.

23       BY MR. CLUFF:

24          Q.     If you can read these, it

1 looks like the first one says, I feel  
2 supported during organizational change at  
3 AmerisourceBergen (change management).

4 And it looks like it's  
5 either a 59 percent or 69 percent.

6 Can you make that out?

7 A. I can barely make that out.

8 Q. Do you have an  
9 understanding, based on looking at this,  
10 whether that would have been 59 percent  
11 or 69 percent?

12 A. I can't say for sure. It's  
13 very blurry.

14 Q. The next line down, maybe  
15 you can tell me if I'm getting this  
16 correctly. It says, At  
17 AmerisourceBergen, there is open and  
18 honest communication (communication).

19 And next to that, it looks  
20 like there's a 58 or possibly a 56  
21 percent.

22 A. I see that.

23 Q. Do you have a recollection  
24 if these were the two questions that were

1 on the engagement survey sent out by  
2 David May in 2015?

3 A. I believe so.

4 Q. These numbers at the end, I  
5 understand that they are hard to read,  
6 but would those have been grades or  
7 rankings that you gave for  
8 AmerisourceBergen on these two questions?

9 MS. MCCLURE: Objection to  
10 form.

11 THE WITNESS: I don't  
12 believe that that was our ranking.  
13 I think that was company-wide.

14 BY MR. CLUFF:

15 Q. So this would reflect a  
16 company-wide ranking of how well  
17 AmerisourceBergen was doing on these two  
18 subjects?

19 MS. MCCLURE: Objection to  
20 form.

21 THE WITNESS: I believe so.

22 BY MR. CLUFF:

23 Q. Stepping back a second.  
24 You have a Bachelor's degree

1       and two Master's degrees, right?

2               A.       Correct.

3               Q.       So you're familiar with,  
4       like, a grading system?

5                       MS. MCCLURE:   Objection to  
6       form.

7                       THE WITNESS:   Correct.

8       BY MR. CLUFF:

9               Q.       All right.   59 and 58  
10       percent, those are pretty low grades,  
11       correct?

12                      MS. MCCLURE:   Objection to  
13       form.

14                      THE WITNESS:   I don't know.

15                      MS. MCCLURE:   Assumes facts  
16       not in evidence.   Foundation.

17       BY MR. CLUFF:

18               Q.       Sorry.   We got talked over  
19       there.   Your answer got talked over with  
20       an objection.

21                      You're familiar with a  
22       grading scale, right, A, B, C, D?

23                      MS. MCCLURE:   Objection to  
24       form.

1 THE WITNESS: Yes.

2 BY MR. CLUFF:

3 Q. If you got a 59 percent or a  
4 58 percent on a test, would you consider  
5 that to be a low grade?

6 MS. MCCLURE: Objection to  
7 form. Misstates -- sorry.  
8 Objection to form. Foundation.  
9 Assumes facts not in evidence.  
10 Speculation.

11 THE WITNESS: I can't say  
12 for sure.

13 BY MR. CLUFF:

14 Q. Okay. But these numbers  
15 reflect, based on your recollection of  
16 participating in the engagement survey, a  
17 company-wide assessment of  
18 AmerisourceBergen's performance on these  
19 two subjects, correct?

20 MS. MCCLURE: Objection to  
21 form. Misstates prior testimony.  
22 Foundation. Facts not in  
23 evidence.

24 THE WITNESS: Restate the

1 question, please.

2 MR. CLUFF: Shannon, I'm  
3 cool with you objecting, but your  
4 objections are getting a little  
5 voluminous. And you made the same  
6 objection, very voluminously,  
7 twice.

8 The rules are pretty  
9 straightforward. You can just say  
10 same objection.

11 MS. MCCLURE: Sure. Happy  
12 to.

13 BY MR. CLUFF:

14 Q. Going back, I asked you  
15 about these numbers that are next to the  
16 two questions.

17 Do you recall that?

18 A. Yes.

19 Q. And I asked you if they were  
20 your grade of AmerisourceBergen's  
21 performance on these two questions.

22 Do you recall that?

23 A. Yes.

24 Q. And do you recall telling me



1     that you believed this was a company-wide  
2     ranking?

3             A.     Yes.

4             Q.     Okay. So these numbers  
5     would reflect a company-wide ranking of  
6     associates' view on AmerisourceBergen's  
7     performance in relation to these two  
8     questions; is that correct?

9             MS. MCCLURE: Same litany of  
10     objections from the last prior  
11     question I objected to.

12            THE WITNESS: I believe so,  
13     yes.

14     BY MR. CLUFF:

15            Q.     So looking at the next  
16     couple of pages, it looks like you have  
17     created an outline of issues to discuss  
18     with David May.

19                    Is that -- would you agree  
20     with that statement?

21            A.     He asked for our feedback on  
22     these.

23            Q.     And in response to that  
24     request, you created this document?

1 A. Yes.

2 Q. And this was in 2015, so you  
3 had been working for AmerisourceBergen,  
4 at that point, roughly three years?

5 A. Yes.

6 Q. In 2015, did you feel like  
7 you had developed a good working  
8 knowledge of AmerisourceBergen's policies  
9 and procedures?

10 MS. MCCLURE: Objection.

11 Form.

12 THE WITNESS: Some; some  
13 not.

14 BY MR. CLUFF:

15 Q. Did you feel like you had  
16 developed a thorough understanding of the  
17 corporate culture at AmerisourceBergen?

18 MS. MCCLURE: Objection to  
19 form.

20 THE WITNESS: It's a huge  
21 corporation, so no.

22 BY MR. CLUFF:

23 Q. How about within the  
24 diversion control team, did you feel like

1     you had developed a good understanding of  
2     the working culture within the diversion  
3     control team?

4                     MS. MCCLURE:   Objection.  
5                     Form.

6                     THE WITNESS:   Generally  
7                     speaking, yes.

8     BY MR. CLUFF:

9             Q.     So on this -- the first page  
10    of the memo, but it's the second page of  
11    the document I handed you, there is a  
12    heading that's underlined that says,  
13    Communication.

14                    Do you see that?

15             A.     I see that.

16             Q.     I want to look at 1A.  It  
17    says, underneath, Communication with our  
18    team.

19                    Do you see that?

20             A.     I see that.

21             Q.     It says, Decisions seem to  
22    be made without gathering feedback from  
23    those who are impacted directly on a  
24    day-to-day basis.

1                   Is that something you recall  
2   about your working conditions on the  
3   diversion control team?

4                   A.     Yes.

5                   Q.     Stepping down to 1D.

6                   Do you see that, it says,  
7   Communication to team regarding  
8   completion of projects?

9                   A.     Yes.

10                  Q.     Under D, there's a small  
11   Roman Numeral i, that says, Policy  
12   documents, with a colon.

13                  Do you see that?

14                  A.     I see that.

15                  Q.     There it says, Although  
16   asked to provide input, there has been no  
17   communication whether policy documents  
18   were made final or not.

19                  Do you see that?

20                  MS. MCCLURE: Those policy  
21   documents.

22                  MR. CLUFF: Shannon, you can  
23   make an objection. But you don't  
24   get to testify.

1 MS. MCCLURE: You don't get  
2 to misstate a document.

3 MR. CLUFF: Would you like  
4 me to reread it?

5 MS. MCCLURE: Sure.

6 MR. CLUFF: You can make  
7 that objection, you don't get to  
8 testify on the deposition.

9 MS. MCCLURE: Reread.

10 BY MR. CLUFF:

11 Q. Should we read it again,  
12 Liz?

13 A. Yes.

14 Q. Great. It says, Policy  
15 document, colon.

16 Do you see that?

17 A. Yes.

18 Q. Although asked to provide  
19 input, there has been no communication  
20 whether those policy documents were made  
21 final or not.

22 Is it your recollection,  
23 from working at AmerisourceBergen, that  
24 often people were unclear about whether

1 documents were made final or not?

2 MS. MCCLURE: Objection.

3 Form.

4 THE WITNESS: No. I'm not  
5 sure what policy documents I'm  
6 referencing.

7 BY MR. CLUFF:

8 Q. But here you do reference  
9 policy documents, and there was a lack of  
10 clarity about whether those policy  
11 documents were final.

12 Would you agree?

13 MS. MCCLURE: Form.

14 THE WITNESS: I'm not sure.

15 BY MR. CLUFF:

16 Q. You continue in that  
17 paragraph, and you say, After researching  
18 the ABC website-I was unable to locate  
19 them and I'm not sure they were on there  
20 to begin with.

21 So you were searching for  
22 policy documents on ABC's website and you  
23 were unable to find them, correct?

24 A. We switched systems at that

1 point, I believe. And they may have been  
2 on there and I just couldn't locate them.

3 Q. Right. So you were unable  
4 to locate the policy documents you were  
5 searching for, correct?

6 A. Correct.

7 Q. All right. Stepping down to  
8 E, it says, Provide positive feedback to  
9 all team members.

10 And Roman Numeral I, you  
11 say, Identify the strengths of each team  
12 member and what he/she can contribute to  
13 the team, while not displaying open  
14 favoritism.

15 Did I read that correctly?

16 A. You did.

17 Q. Do you recall instances of  
18 favoritism in the diversion control team?

19 A. Well, as previously noted,  
20 Eric and I had personality differences,  
21 so he may have favored one person over  
22 another.

23 Q. Do you recall who he, in  
24 your opinion, favored over another?

1 A. No.

2 MS. MCCLURE: Objection.

3 Form.

4 BY MR. CLUFF:

5 Q. But based on your experience  
6 working with him, did you develop an  
7 opinion that you were not his favorite?

8 A. Our interactions were  
9 limited.

10 Q. Looking at Roman Numeral II  
11 there, it's ii, it says, Communicating  
12 effectively and providing encouragement  
13 and support with approachable demeanor.  
14 For example, if someone has a different  
15 perspective regarding a decision and  
16 provides a rationale for their  
17 perspective, perhaps listening to the  
18 rationale would go a long way to  
19 encouraging that person to speak up in  
20 future discussions, providing added value  
21 to team efforts.

22 Do you recall expressing  
23 different perspectives during  
24 conversations with your diversion control



1 teammates?

2 A. Yes.

3 Q. And those different  
4 perspectives were about decisions?

5 A. Or general feedback on  
6 projects.

7 Q. What kind of decisions do  
8 you recall giving perspectives about?

9 A. I don't recall.

10 Q. What about general feedback  
11 on projects do you receive -- do you  
12 recall receiving?

13 A. I believe I reference one of  
14 those here. A training document.

15 Q. Can you tell me where you're  
16 looking?

17 A. I'm looking at 296981.

18 Q. Okay. So just for the  
19 record, that's the last page of the  
20 document.

21 A. Yes.

22 Q. Ending Bates number 296981.

23 And can you tell me what  
24 section you're looking at, please, Liz?

1 A. I'm looking at --

2 Q. Is it small Roman Numeral i  
3 at the top?

4 A. Yes.

5 Q. And what about that stands  
6 out to you?

7 MS. MCCLURE: Objection to  
8 form.

9 THE WITNESS: Eric and I saw  
10 that differently, that project.

11 BY MR. CLUFF:

12 Q. Let's read that.

13 It says, Example: Training  
14 of the DC personnel on the old and new  
15 OMP program was challenging in terms of  
16 how to accomplish the task.

17 What do you recall about the  
18 challenges?

19 A. How to approach it.

20 Q. What was the difference in  
21 how you were approaching the task?

22 A. Verbal language, how to  
23 present it verbally and visually.

24 Q. Okay. You continue there

1 and say, Decision trees were discussed,  
2 with the current version initially  
3 rejected because it did not fit the  
4 vision of management.

5 Did you draft the initial  
6 version, or the current version?

7 A. Myself and another  
8 investigator did, yes.

9 Q. Would that investigator have  
10 been Nikki Seckinger?

11 A. No.

12 Q. Who would it have been?

13 A. Lino Guerreiro.

14 Q. Is his full name Marcelino  
15 Guerreiro?

16 A. Yes.

17 Q. And people refer to him as  
18 Lino?

19 A. Yes.

20 Q. Just to be clear, if we use  
21 his name again.

22 A. Okay.

23 Q. You recall management  
24 rejecting your initial version?

1 A. Yes.

2 Q. You proceed and say, After  
3 outlining the benefits of the current  
4 decision tree versus the tree envisioned  
5 by management, in this case, management  
6 insisted on their decision tree because  
7 of senior position within the company.

8 Do you recall if Eric  
9 Cherveney insisted on his version just  
10 because he was senior to you in the  
11 company?

12 MS. MCCLURE: Objection to  
13 form.

14 THE WITNESS: I vaguely  
15 recall.

16 BY MR. CLUFF:

17 Q. Do you recall any  
18 merit-based reasons why he decided his  
19 decision tree was better than yours?

20 MS. MCCLURE: Objection to  
21 form.

22 THE WITNESS: No.

23 BY MR. CLUFF:

24 Q. Looking at the last

1 sentence, you say, Exchanges such as  
2 these promote mistrust and are  
3 counterproductive, at the expense of the  
4 betterment of business processes  
5 company-wide.

6 Do you see that?

7 A. I see that.

8 Q. So you mistrusted your  
9 managers, is that what you're trying to  
10 communicate here?

11 MS. MCCLURE: Objection to  
12 form.

13 THE WITNESS: Not mistrust,  
14 just a breakdown in communication.

15 BY MR. CLUFF:

16 Q. But you would agree with me  
17 you used the word "promote mistrust,"  
18 correct?

19 A. The words are there, yes.

20 Q. All right. What were the  
21 decision trees for in this presentation  
22 that you're discussing in this portion of  
23 the document?

24 A. For DC, distribution center,

1 personnel training.

2 Q. And what were the  
3 training -- what was the purpose of the  
4 training?

5 A. The training was on  
6 suspicious orders.

7 Q. And what was the decision  
8 tree designed to help the DC personnel  
9 understand about suspicious orders?

10 MS. MCCLURE: Objection.  
11 Form.

12 THE WITNESS: It was to  
13 describe to them an order of  
14 interest that would hit the  
15 algorithm in the OMP program.

16 BY MR. CLUFF:

17 Q. Was that a new OMP program?

18 A. It was going to be, yes.

19 Q. And the algorithm was a new  
20 process at AmerisourceBergen, correct?

21 MS. MCCLURE: Objection.  
22 Form.

23 THE WITNESS: Correct.

24 BY MR. CLUFF:

1           Q.     Do you know whether  
2     AmerisourceBergen used an algorithm, or  
3     some other method of identifying  
4     suspicious orders prior to 2015?

5           A.     They used an algorithm, as  
6     far as I know.

7           Q.     You're not aware that they  
8     used a threshold?

9                   MS. MCCLURE:   Objection to  
10                  form.

11                  THE WITNESS:   That's part of  
12                  the algorithm, I think.

13     BY MR. CLUFF:

14           Q.     Underneath that paragraph  
15     that you read, small Roman Numeral i,  
16     there's Roman Numeral Iii, it says,  
17     Solution.

18                   So this is a paragraph where  
19     you're proposing a solution for the  
20     problem of mistrusting managers; is that  
21     correct?

22                   MS. MCCLURE:   Objection to  
23                  form.

24                  THE WITNESS:   A solution for

1 better communication.

2 BY MR. CLUFF:

3 Q. Okay. Was the solution to  
4 help avoid mistrust?

5 MS. MCCLURE: Objection to  
6 form.

7 THE WITNESS: Just to have  
8 open communication lines.

9 BY MR. CLUFF:

10 Q. So the solution you propose  
11 is, Acknowledgment must be made -- and  
12 those three words are underlined -- that  
13 the way ideas are communicated can be  
14 more engaging without being  
15 argumentative.

16 Did you feel that your  
17 manager, Eric Cherveney, was argumentative  
18 with you?

19 MS. MCCLURE: Objection to  
20 form.

21 THE WITNESS: At times.

22 BY MR. CLUFF:

23 Q. Do you recall times where he  
24 was argumentative with you?



1           A.       Not specifics, no.

2           Q.       Was he ever argumentative  
3 with you about decisions related to your  
4 job responsibilities?

5           A.       Not that I recall.

6           Q.       You continue in this  
7 paragraph, and you say, In addition to  
8 this, however, delegation of certain  
9 tasks without micromanagement is a more  
10 effective way to help forge more  
11 confidence within the group.

12                   Do you recall Eric Cherveney  
13 micromanaging you?

14                   MS. MCCLURE:   Objection to  
15 form.

16                   THE WITNESS:   At times, but  
17 not overall he wasn't a  
18 micromanager.

19 BY MR. CLUFF:

20           Q.       Is there another manager or  
21 employee at AmerisourceBergen who was a  
22 micromanager?

23                   MS. MCCLURE:   Objection to  
24 form.

1 THE WITNESS: Not that I  
2 worked for.

3 BY MR. CLUFF:

4 Q. Here you note that, Engaging  
5 in this kind of behavior without  
6 micromanagement will help forge more  
7 confidence.

8 Would you agree that there  
9 was a lack of confidence in management at  
10 AmerisourceBergen?

11 MS. MCCLURE: Objection to  
12 form.

13 THE WITNESS: I don't know.  
14 You would have to ask them.

15 BY MR. CLUFF:

16 Q. I'm asking you, because you  
17 wrote, "help forge more confidence."

18 So without being  
19 argumentative, I just want to clarify my  
20 question.

21 Based on your working  
22 experience with management at  
23 AmerisourceBergen and as an employee  
24 reporting to them, did you feel a lack of

1 confidence in their leadership abilities?

2 MS. MCCLURE: Objection to  
3 form.

4 THE WITNESS: Generally, no.

5 BY MR. CLUFF:

6 Q. Okay. Please look at Number  
7 2 there, it says, CSRA department, on  
8 that same page.

9 Do you see that? And there  
10 is a Subparagraph A that says, Whenever  
11 changes are made organizationally, there  
12 is an announcement made after the fact,  
13 seemingly without much understanding as  
14 to impact on associates.

15 Do you see that?

16 A. I see that.

17 Q. Can you remember any  
18 examples where after-the-fact decisions  
19 were made that impacted the associates?

20 A. I don't recall.

21 Q. If you look down in the next  
22 lower case Roman Numeral i, it says,  
23 Example.

24 Do you see that?

1 A. Yes.

2 Q. So would this be an example  
3 of something that was announced after the  
4 fact that impacted associates?

5 MS. MCCLURE: Objection to  
6 form.

7 THE WITNESS: Yes.

8 BY MR. CLUFF:

9 Q. So you say, When the  
10 director of diversion control decided to  
11 move in another direction, all of a  
12 sudden, a new person took his place  
13 without warning to the associates who  
14 would be under the new director.

15 So is the director of  
16 diversion control that moved in another  
17 direction, was that Ed Hazewski?

18 A. Ed moved in another  
19 direction, yes.

20 Q. So this is an example of  
21 something that was announced after the  
22 fact that impacted associates, correct?

23 A. Yes.

24 Q. And the new director would

1 have been Eric Cherveney; is that right?

2 A. Yes.

3 Q. So you continue in that  
4 paragraph and say, Sudden shifts like  
5 this create apprehension and potentially  
6 a negative view of upper management and  
7 how inside decisions are made.

8 Do you see that?

9 A. I see that.

10 Q. I want to look -- let's just  
11 read the last two sentences. I don't  
12 want to leave anything out.

13 It says, Perhaps in this  
14 case it was unavoidable, as job changes  
15 are not made public while in the process.

16 Do you see that?

17 A. I see that.

18 Q. The next sentence you say,  
19 However, it generated surprise and  
20 resentment among some who would have  
21 liked a chance to apply for the position.

22 Looking at this paragraph,  
23 was it your understanding, working in the  
24 diversion control team, that changes in

1 upper management created a negative view  
2 of upper management?

3 MS. MCCLURE: Objection to  
4 form.

5 THE WITNESS: That comment  
6 was said at the DC level to me.  
7 And I repeated it here.

8 BY MR. CLUFF:

9 Q. So "at the DC level," that  
10 means at the distribution center level?

11 A. Yes.

12 Q. And so employees at the DC  
13 level had, based on what they reported to  
14 you, a potentially negative view of upper  
15 management; is that correct?

16 MS. MCCLURE: Objection to  
17 form.

18 THE WITNESS: Potentially,  
19 yes.

20 BY MR. CLUFF:

21 Q. Okay. And looking at the  
22 last sentence, you say, It generated  
23 surprise and resentment.

24 Do you recall examples of

1 people feeling resentful about the sudden  
2 change that was announced after the fact?

3 A. No.

4 Q. You also mention people who  
5 would have liked to apply for the  
6 position.

7 Do you know who wanted to  
8 apply for that position?

9 A. I do not.

10 Q. Did you want to apply for  
11 the position?

12 A. No.

13 Q. How did you feel about Eric  
14 Cherveney becoming your new supervisor?

15 A. Indifferent.

16 Q. Before Eric Cherveney became  
17 your supervisor, you worked for Ed  
18 Hazewski for approximately three years,  
19 correct?

20 A. Correct.

21 Q. Were you aware that Mr.  
22 Hazewski had a law enforcement  
23 background?

24 A. Yes.

1           Q.     As a former DEA  
2     investigator, did you respect him for his  
3     law enforcement background?

4           A.     Yes.

5           Q.     Were you aware if Mr.  
6     Hazewski had any, you know, college or  
7     postgraduate degrees?

8           A.     I'm not aware of that.

9           Q.     When Mr. Cherveney became  
10    your supervisor, and through the two  
11    years that you worked for him, did you  
12    ever understand whether he had any law  
13    enforcement background?

14          A.     I don't recall.

15          Q.     Do you know if he had any  
16    law enforcement background?

17          A.     I don't recall.

18          Q.     Do you know if Mr. Cherveney  
19    ever completed a college education?

20          A.     I don't know.

21          Q.     Would it concern you if you  
22    learned that Mr. Cherveney had no college  
23    education?

24                   MS. MCCLURE:   Objection.



1 Form.

2 THE WITNESS: No.

3 BY MR. CLUFF:

4 Q. Please turn to the second  
5 page of this memo. It's the third page  
6 of the document.

7 A. The second page?

8 Q. Yes. So it's one, two,  
9 three from the beginning.

10 At the top, you'll see a  
11 small Roman Numeral iii.

12 A. Okay.

13 Q. It says, Promoting the  
14 continued advancement.

15 A. Yes.

16 Q. So there you write,  
17 Promoting the continued advancement,  
18 growth and development of the team  
19 members through coaching, delegation and  
20 other active management efforts, i.e.,  
21 continuous constructive communication.

22 Do you see that?

23 A. I see that.

24 Q. Did you ever move up in the

1 company?

2 A. No.

3 Q. Did you feel like you  
4 advanced, grew or developed as a member  
5 of the team?

6 MS. MCCLURE: Objection to  
7 form.

8 Go ahead.

9 THE WITNESS: I feel like I  
10 grew.

11 BY MR. CLUFF:

12 Q. But you just didn't advance?

13 A. No.

14 Q. In the five years you worked  
15 at AmerisourceBergen, did you ever form  
16 any opinions about why you didn't advance  
17 at the company?

18 A. No.

19 Q. Did you see anybody else  
20 advance at the company?

21 A. The company, in general,  
22 there are shifts all the time.

23 Q. Let me clarify. Shifts, I  
24 think, is a little bit different. I'm

1     talking about advancement, like moving up  
2     in responsibility.

3                     Did you see anybody move up  
4     in responsibility while you were there  
5     for five years at AmerisourceBergen?

6             A.     Yes.

7             Q.     Who was that?

8             A.     Anthony Terrachi went from  
9     Bruce Gundi's group, as an investigator,  
10    to a director.

11            Q.     Do you have any  
12    understanding of why he was promoted to a  
13    director?

14            A.     No.

15            Q.     Did you apply for the  
16    position of director, or were you  
17    attempting to become a director, from a  
18    diversion investigator?

19            A.     No.

20                    MS. MCCLURE:  Objection.

21    BY MR. CLUFF:

22            Q.     Why not?

23            A.     Wait.  Restate the question.

24            Q.     Sure.

1 Did you -- I asked two  
2 questions at once, so I'll break them up.

3 Did you ever apply for the  
4 position of director at  
5 AmerisourceBergen?

6 A. No.

7 Q. Were you seeking to become a  
8 director in AmerisourceBergen?

9 A. No.

10 Q. Why not?

11 A. I didn't want to.

12 Q. Looking at this document  
13 again, it's letter F, it says, General  
14 communication.

15 Do you see it says, General  
16 communication, building common team  
17 effort towards common mission.

18 And then in Subparagraph I  
19 it says, Raids by the DEA-the team does  
20 not hear about these unless asked to  
21 gather records for subpoenas.

22 Do you recall instances of  
23 raids by the DEA while you worked at  
24 AmerisourceBergen?

1 MS. MCCLURE: Objection.

2 Form.

3 THE WITNESS: Raids from the  
4 media.

5 BY MR. CLUFF:

6 Q. Okay. What were those?

7 A. Pharmacy raids.

8 Q. What did you know about  
9 pharmacy raids while you were working  
10 with AmerisourceBergen?

11 MS. MCCLURE: Objection to  
12 form.

13 THE WITNESS: After the  
14 fact, that they happened.

15 BY MR. CLUFF:

16 Q. Would you have been asked to  
17 gather records for subpoenas in relation  
18 to pharmacy raids?

19 A. If they were an ABC  
20 customer.

21 Q. Would you also have been  
22 asked to gather records for subpoenas if  
23 DEA -- I mean, DEA agents raided  
24 AmerisourceBergen facilities?

1 MS. MCCLURE: Objection to  
2 form.

3 THE WITNESS: I don't know.

4 BY MR. CLUFF:

5 Q. You continue in that  
6 paragraph and say, It would be helpful --  
7 it would be useful for the team to be in  
8 the loop regarding accounts that have  
9 been closed or raided by the DEA or other  
10 agencies, as it could help the team  
11 identify other customers in the same  
12 geographical area who may be at risk of  
13 diversion.

14 Do you see that?

15 A. I see that.

16 Q. Did you have a concern that  
17 the diversion control team didn't know  
18 about customers that were being raided at  
19 this time?

20 MS. MCCLURE: Objection.  
21 Form.

22 THE WITNESS: Restate the  
23 question, please.

24 BY MR. CLUFF:

1           Q.     Did you have concerns about  
2     not knowing about DEA raids in relation  
3     to diversion at this time?

4                     MS. MCCLURE:   Same  
5     objection.

6                     THE WITNESS:   Yes.

7     BY MR. CLUFF:

8           Q.     What were your concerns?

9           A.     Just to know who they were  
10    and what geographical area it was in.

11          Q.     You make a reference to how  
12    knowing this information could help the  
13    team identify other customers in the same  
14    geographical area who may be at risk of  
15    diversion.

16                    So I'm trying to understand  
17    what you're writing there.  If, say, a  
18    pharmacy in Los Angeles got raided, would  
19    that mean that other pharmacies in that  
20    same location could potentially be at  
21    risk for diversion?

22                    MS. MCCLURE:   Objection to  
23    form.

24                    THE WITNESS:   That's hard to

1           answer without looking at those  
2           pharmacies.

3       BY MR. CLUFF:

4           Q.     But it would have been  
5       helpful to know what geographical area a  
6       pharmacy got raided in, right?

7           A.     To maybe focus.

8           Q.     To help identify some that  
9       could be at risk for diversion?

10          A.     That could be, yes.

11          Q.     And that was information  
12       that was not communicated to the team,  
13       correct?

14                   MS. MCCLURE:  Objection to  
15       form.

16                   THE WITNESS:  It was  
17       communicated after the fact.

18       BY MR. CLUFF:

19          Q.     Looking down the page,  
20       there's another underlined heading that  
21       says, Change management.

22                   Do you see that?

23          A.     I see that.

24          Q.     It says, Diversion control



1 team.

2 Do you see that?

3 A. I see that.

4 Q. In A, it says, Policies and  
5 procedures. There has been a steady  
6 stream of decisions around policy that  
7 has been made in the last nine months or  
8 so, some of it clearly outlined and some  
9 not as much.

10 Do you recall some unclear  
11 policies and procedures that were being  
12 implemented at AmerisourceBergen?

13 MS. MCCLURE: Objection to  
14 form.

15 THE WITNESS: I don't  
16 recall.

17 BY MR. CLUFF:

18 Q. But you wrote here that some  
19 decisions around policies were not  
20 clearly outlined, correct?

21 MS. MCCLURE: Objection to  
22 form.

23 THE WITNESS: They were in  
24 process.

1 BY MR. CLUFF:

2 Q. You continue in that  
3 paragraph, and say, In the instances  
4 where there is no clearcut decision that  
5 is reinforced by policy, it is left up to  
6 the discretion of the investigators to  
7 make day-to-day decisions that impact  
8 customers.

9 Do you see that?

10 A. I see that.

11 Q. You were an investigator at  
12 AmerisourceBergen, correct?

13 A. Yes.

14 Q. And you held that position  
15 continuously for five years?

16 A. Yes.

17 Q. And in 2015, you would have  
18 held that position for three years,  
19 correct?

20 A. Correct.

21 Q. So in your work as an  
22 investigator, would you agree with me, as  
23 you write here, that, in some instances,  
24 there were no clearcut decisions to

1     reinforce -- that were reinforced by  
2     policy, right?

3                     MS. MCCLURE:   Objection.

4                     THE WITNESS:   Restate,  
5                     please.

6     BY MR. CLUFF:

7                     Q.     In your work as an  
8     investigator at AmerisourceBergen,  
9     oftentimes there were no clearcut --  
10    there were instances where there was no  
11    clearcut decision that was reinforced by  
12    an AmerisourceBergen policy?

13                    MS. MCCLURE:   Objection to  
14                    form.

15                    THE WITNESS:   I just -- I  
16     don't recall looking at the policy  
17     or what stage of draft it was in.  
18     I don't remember that.

19    BY MR. CLUFF:

20                    Q.     But here, you would agree  
21    with me, that you write that, In the  
22    instances where there is no clearcut  
23    decision that is reinforced by policy, it  
24    is left up to the discretion of the

1 investigator to make day-to-day  
2 decisions; is that right?

3 A. That's right. I'm asking  
4 for more guidance.

5 Q. The next step down, it says,  
6 i, little Roman Numeral ii, Process  
7 changes.

8 It says, Example: 590s.

9 What's a 590?

10 A. It's the questionnaire that  
11 a new and existing customer fills out as  
12 part of their due diligence file.

13 Q. Were there different kinds  
14 of Form 590s for different customer  
15 classes at AmerisourceBergen?

16 MS. MCCLURE: Objection to  
17 form.

18 MR. CLUFF: Let me clarify.

19 BY MR. CLUFF:

20 Q. So did, like, retail chain  
21 pharmacies have a different 590 than  
22 independent retail pharmacies?

23 MS. MCCLURE: Objection to  
24 form.

1 THE WITNESS: No. The  
2 questions were roughly the same.

3 BY MR. CLUFF:

4 Q. Did AmerisourceBergen ever  
5 create an abbreviated Form 590 for retail  
6 chains?

7 MS. MCCLURE: Objection.  
8 Form.

9 THE WITNESS: It had the  
10 same pertinent information, other  
11 than ownership.

12 BY MR. CLUFF:

13 Q. Did AmerisourceBergen ever  
14 make an exception for retail chain  
15 pharmacies on the way in which they  
16 collected due diligence on the Form 590?

17 MS. MCCLURE: Objection.  
18 Form.

19 THE WITNESS: No.

20 BY MR. CLUFF:

21 Q. Never?

22 A. No.

23 Q. So is it your testimony here  
24 today, then, that AmerisourceBergen

1 followed the same policies and procedures  
2 about gathering Form 590 information from  
3 retail chains as independent retail  
4 pharmacies?

5 MS. MCCLURE: Objection to  
6 form.

7 THE WITNESS: Correct.

8 BY MR. CLUFF:

9 Q. I'm going to hand you a copy  
10 of a document that we're going to mark as  
11 Exhibit-4 to your deposition. Let me  
12 describe it for the record, and then I'll  
13 hand it to you.

14 It's a multipage e-mail, the  
15 top e-mail on the first page is from  
16 Garcia, Elizabeth to Tomkowitz, Joseph,  
17 subject line: Forward: Costco CF-OMP  
18 discussion with Jon McArthur. The Bates  
19 numbers are ABDCMDL00333083 to 333085.

20 MR. CLUFF: Here is a copy  
21 for you.

22 - - -

23 (Whereupon,  
24 AmerisourceBergen-Garcia

1                   Exhibit-4, ABDCMDL00333083-085,  
2                   was marked for identification.)

3                                   -   -   -

4       BY MR. CLUFF:

5                   Q.       Please take a moment to  
6       refresh your recollection with that  
7       document.

8                               To help you out, Ms. Garcia,  
9       the portion of the e-mail I'm going to  
10      direct your attention to is the bottom of  
11      the first page and the top of the second  
12      page.

13                  A.       Okay.

14                  Q.       It looks like I'm missing a  
15      page now.

16                              MR. CLUFF:   Can you go to  
17                              the last page in the exhibit,  
18                              please, Zach?

19       BY MR. CLUFF:

20                  Q.       Do you see there at the  
21      bottom, Liz, the e-mail begins from Greg  
22      Madsen, and it's to Greg Madsen and a  
23      number of other people. And the subject  
24      line is, Costco CF-OMP discussion with

1 Jon McArthur.

2 Do you see that?

3 A. Yes.

4 Q. What is Costco CF?

5 A. Costco Central Fill.

6 Q. Is that one of  
7 AmerisourceBergen's customers?

8 A. Costco is, yes.

9 Q. Would you qualify them as,  
10 like, a retail chain customer?

11 MS. MCCLURE: Objection.

12 Form.

13 THE WITNESS: This was the  
14 Central Fill. So yes.

15 BY MR. CLUFF:

16 Q. And the rest of that subject  
17 line is, OMP discussion with Jon  
18 McArthur.

19 Do you have an understanding  
20 of what that would refer to?

21 A. Joe and I had discussions  
22 with Jon McArthur of Costco outlining  
23 that we wanted to collect due diligence  
24 information, I believe.



1                   Q.       Who is "Joe" that you refer  
2   to?

3                   A.       Joe Tomkowitz.

4                   Q.       So you and Joe Tomkowitz  
5   discussed with Jon McArthur about due  
6   diligence you wanted to collect.

7                             Is that specifically from  
8   Costco?

9                   A.       Yes, from the Costco Central  
10   Fill.

11                  Q.       If you move up the e-mail  
12   chain, it looks like there is a response,  
13   it blends between the second and third  
14   page, from Greg Madsen to Ed Hazewski.

15                             Do you see that? The bottom  
16   of Page 2 and the top of Page 3.

17                  A.       Yes.

18                  Q.       And it looks like it says,  
19   from Greg, Ed, Any more information come  
20   out of this meeting with Costco about a  
21   month ago? Not sure who is handling  
22   this, and let me know who is point on  
23   this.

24                             Do you see that?

1                   A.       I see that.

2                   Q.       And then if you go up to the  
3       bottom of Page 2, there's an e-mail from  
4       Ed Hazewski to Greg Madsen, and a number  
5       of other people, and now you're on the cc  
6       line.

7                             Do you see that?

8                   A.       I see that.

9                   Q.       And he says, Liz is the  
10       point person. She is off today. But  
11       I'll have her send an update.

12                            Do you see that?

13                   A.       I see that.

14                   Q.       So if you go to the bottom  
15       of the first page and the top of the  
16       second page, there's an e-mail from you  
17       to Greg Madsen.

18                            Do you see that?

19                   A.       I see that.

20                   Q.       You start off, Hello, Greg  
21       and Jon.

22                            Correct?

23                   A.       Yes.

24                   Q.       Did you know Greg and Jon,

1 obviously, by their first names?

2 A. Yes.

3 Q. And Jon is Jon McArthur at  
4 Costco?

5 A. Yes.

6 Q. Do you know what his  
7 position was?

8 A. I do not.

9 Q. Okay. And you write to Greg  
10 and Jon, you say, The last conversation  
11 we had on July 25th, we discussed the  
12 importance of gathering the 590  
13 questionnaire demographic information  
14 from our chain customers.

15 Do you see that?

16 A. I see that.

17 Q. So, again, Costco is one of  
18 your chain customers, correct?

19 A. Yes.

20 Q. And are chain customers  
21 different than independent retail  
22 customers?

23 A. No. They're still in the  
24 same class of retail.

1 Q. Okay.

2 A. They're just more of them  
3 under one ownership.

4 Q. You continue and say, Given  
5 the regulatory environment resulting from  
6 the DEA/Walgreens action.

7 What was the DEA/Walgreens  
8 action?

9 A. DEA fined Walgreens for \$80  
10 million for records.

11 Q. Do you recall when that fine  
12 was?

13 A. It might have been 2011,  
14 2012, somewhere in there.

15 Q. If I represented to you that  
16 it was in the middle of 2013, would that  
17 refresh your recollection?

18 MS. MCCLURE: Objection.

19 Form.

20 THE WITNESS: I don't  
21 remember the exact date.

22 BY MR. CLUFF:

23 Q. Okay. I think it's  
24 important that we get the date right, so

1 I'm going to hand you another document.  
2 It's a large document, I don't want to  
3 waste your time on it. I'm just going to  
4 direct you to one slide so we can get a  
5 little bit of clarity on this.

6 And we're going to mark this  
7 as Exhibit-5, which is an e-mail Bates  
8 marked 162348, that has attachments, one  
9 of which is, CSRA summary-DEA briefing  
10 Phoenix-05-16-17.ocx. There's another  
11 attachment which is, DEA presentation,  
12 distributor briefing, Phoenix5-16-17-PDF.  
13 The attachments to the e-mail run from  
14 Bates numbers ABDCMDL00162349 to 162399.

15 The entirety of the e-mail  
16 and both attachments have been marked as  
17 confidential and subject to the  
18 protective order.

19 I'll hand you your copy, Ms.  
20 Garcia.

21 MR. CLUFF: And then here  
22 you go, counsel.

23 - - -

24 (Whereupon,

1 AmerisourceBergen-Garcia  
2 Exhibit-5, ABDCMDL00162348-399,  
3 was marked for identification.)

4 - - -

5 BY MR. CLUFF:

6 Q. So let me just help you.  
7 Let's lay some foundation on this  
8 document, really quick, Liz, and I'll  
9 kind of walk you through it so we don't  
10 waste anybody's time here today.

11 Do you see at the top  
12 there's a "from" line and you're the  
13 sender identified in the "from"?

14 A. Yes.

15 Q. And the recipient is  
16 identified as David May in the "to" line;  
17 is that correct?

18 A. Yes.

19 Q. So based on your  
20 understanding of, you know, writing  
21 e-mails at AmerisourceBergen, this  
22 appears to be an e-mail you sent to David  
23 May, right?

24 A. Yes.

1                   Q.     Okay. And you see the  
2     subject, DEA briefing memo and  
3     presentation?

4                   A.     Yes.

5                   Q.     Okay. And then you see  
6     there are -- there's an attachments line.  
7     The first attachment is, CSRA summary-DEA  
8     briefing Phoenix.

9                             Do you see that?

10                  A.     I see that.

11                  Q.     Now, if you turn to the  
12     first page and look at the next page in  
13     the document, do you see that there is a  
14     memo --

15                  A.     I see that.

16                  Q.     -- titled, DEA distributor  
17     briefing-Phoenix, AZ.

18                             Do you see that?

19                  A.     I see that.

20                  Q.     Would you agree this appears  
21     to be the first attachment to this  
22     e-mail?

23                  A.     Yes.

24                  Q.     So going back to the cover

1 e-mail, there's a second attachment,  
2 separated by a semicolon.

3 Do you see that?

4 A. Yes.

5 Q. It says, DEA presentation  
6 distributor briefing Phoenix 5-16-17.

7 Do you see that?

8 A. I see that.

9 Q. So if you flip back three  
10 pages, you'll see what appear to be  
11 PowerPoint slides.

12 Do you see that?

13 A. I see that.

14 Q. And at the top it says,  
15 Distributor initiative?

16 A. Yes.

17 Q. Did you attend a distributor  
18 briefing in Phoenix in 2017?

19 A. I did.

20 Q. Does this appear to be the  
21 slide presentation given by the DEA at  
22 that briefing?

23 A. Yes.

24 Q. Okay. So it appears that



1     this is a true and correct copy of the  
2     document that you e-mailed to David May?

3                     MS. MCCLURE:  Objection.  
4                     Form.

5                     THE WITNESS:  It appears  
6                     that way, yes.

7     BY MR. CLUFF:

8                     Q.     Okay.  So these slides don't  
9     have slide numbers on them, but we can  
10    move through the document pretty easily  
11    with the Bates numbers.

12                    A.     Okay.

13                    Q.     I just want to point out --  
14    my apologies, it's such a long document,  
15    and I may have given you the wrong one.

16                    Set that aside.  I think I  
17    gave you the wrong document.  That's my  
18    fault, I apologize.

19                    So let's go back to, I  
20    believe it's Exhibit-4, which is the  
21    e-mail between you and Mr. Tomkowitz at  
22    the top.

23                    Do you see that?

24                    A.     Yes.

1           Q.     So going back to this  
2     portion you wrote in August of 2013, we  
3     discussed at the end of that first  
4     paragraph, you talked about the  
5     DEA/Walgreens action, right?

6           A.     Yes.

7           Q.     And you said that there was  
8     an \$80 million fine against Walgreens?

9           A.     Yes.

10          Q.     Okay. So you continue on,  
11     on the next page, it says, As a  
12     wholesaler/distributor and a DEA  
13     registrant.

14                     Do you see that paragraph?

15          A.     I see it.

16          Q.     You say, AmerisourceBergen  
17     is mandated to know our customers.

18                     Correct?

19          A.     Yes.

20          Q.     And you're talking about,  
21     just in the subject of this e-mail, I  
22     want to be clear, chain customers,  
23     correct?

24                     MS. MCCLURE: Objection.

1 Form.

2 THE WITNESS: We're talking  
3 about Costco Central Fill.

4 BY MR. CLUFF:

5 Q. At the beginning of this  
6 e-mail, you wrote, on August 26th, 2013,  
7 you said, We discussed the importance of  
8 gathering the 590 questionnaire  
9 demographic information from our, quote,  
10 chain customers.

11 Do you see that?

12 A. Yes.

13 Q. So here we're talking about  
14 chain customers, of which Costco is one,  
15 correct?

16 MS. MCCLURE: Objection.  
17 Form.

18 THE WITNESS: Yes.

19 BY MR. CLUFF:

20 Q. Okay. So going back to the  
21 top of the second page, you say, This  
22 process normally begins with the  
23 completion of a questionnaire that  
24 contains compliance-related questions and

1 information, prior to servicing the  
2 pharmacy.

3 Do you see that?

4 A. I see that.

5 Q. So that's the normal  
6 process, correct?

7 A. Yes.

8 Q. And you continue and say,  
9 These forms are kept on file -- excuse  
10 me, The forms are kept on file and serve  
11 as the basis to satisfy our, quote, Know  
12 Your Customer, closed quote, mandate and  
13 as reference for future activity.

14 Do you see that?

15 A. I see that.

16 Q. So is it your understanding  
17 that the 590s were part of the mandated  
18 Know Your Customer requirement?

19 MS. MCCLURE: Objection.

20 Form.

21 THE WITNESS: That was an  
22 internal ABC requirement.

23 BY MR. CLUFF:

24 Q. You, here, refer to it as a

1 Know Your Customer mandate.

2 It's your opinion that ABC  
3 mandated the Know Your Customer  
4 information?

5 MS. MCCLURE: Objection to  
6 form.

7 THE WITNESS: DEA mandates  
8 it, but there's no regulatory  
9 statute.

10 BY MR. CLUFF:

11 Q. But DEA mandates that  
12 companies like AmerisourceBergen know  
13 their customers, correct?

14 MS. MCCLURE: Objection to  
15 form.

16 THE WITNESS: They suggest  
17 that on their website.

18 BY MR. CLUFF:

19 Q. I'm sorry, here you use the  
20 word "mandate" but you just said  
21 suggested. So I'm just trying to  
22 understand which it is.

23 Is it a mandate or a  
24 suggestion?

1                   A.       It's not --

2                   MS. MCCLURE:   Objection to  
3                   form.

4                   THE WITNESS:   It's not a  
5                   regulatory requirement in the  
6                   statutes.

7   BY MR. CLUFF:

8                   Q.       But here you write that it's  
9                   mandated.

10                   So would you agree with me  
11                   here that in 2013, you believed that the  
12                   Know Your Customer information was  
13                   mandated?

14                   MS. MCCLURE:   Objection.  
15                   Form.

16                   THE WITNESS:   I just used  
17                   that word.

18   BY MR. CLUFF:

19                   Q.       So you continue in the next  
20                   paragraph, Historically,  
21                   AmerisourceBergen has collected one  
22                   questionnaire for an entire chain of  
23                   stores.

24                   Do you see that?

1           A.       I see that.

2           Q.       So for independent retail  
3 customers, did AmerisourceBergen obtain a  
4 590 for each independent retail chain?

5                   MS. MCCLURE:  Objection.  
6                   Form.

7                   THE WITNESS:  That was  
8 before my time.  I don't know.

9   BY MR. CLUFF:

10          Q.       In 2013, you worked at  
11 AmerisourceBergen, correct --

12          A.       Yes.

13          Q.       -- excuse me, correct?

14                   In 2013, was it  
15 AmerisourceBergen's practice to collect a  
16 590 for each independent retail pharmacy?

17                   MS. MCCLURE:  Objection.  
18                   Form.

19                   THE WITNESS:  For each  
20 independent retail pharmacy, yes.

21   BY MR. CLUFF:

22          Q.       Okay.  And here you're  
23 saying, Historically, AmerisourceBergen  
24 has collected one questionnaire for an

1       entire chain of stores.

2                       Do you see that?

3               A.       I see that.

4               Q.       So that's different than the  
5       way you're treating independent chains --  
6       or independent pharmacies, correct?

7                       MS. MCCLURE:  Objection to  
8       form.

9                       THE WITNESS:  I don't know  
10       what the process was before I got  
11       the chains.

12       BY MR. CLUFF:

13               Q.       Did somebody else write this  
14       sentence for you?

15                       MS. MCCLURE:  Objection to  
16       form.  Argumentative.

17                       THE WITNESS:  No.

18       BY MR. CLUFF:

19               Q.       But you write, Historically,  
20       AmerisourceBergen has collected one  
21       questionnaire for an entire chain of  
22       stores.

23                       Do you see that?

24               A.       I see that.



1 Q. Okay. So did you form an  
2 understanding about AmerisourceBergen's  
3 historic practices as to chain  
4 pharmacies?

5 A. That was historically before  
6 my time of getting chains.

7 Q. Where did you get this  
8 information from?

9 A. I don't recall.

10 Q. Did somebody else write it  
11 for you?

12 MS. MCCLURE: Objection to  
13 form. Asked and answered.  
14 Argumentative.

15 THE WITNESS: No.

16 BY MR. CLUFF:

17 Q. So you wrote it from your  
18 own personal knowledge, then?

19 A. From my understanding, yes.

20 Q. Okay. Then you continue and  
21 say, However, recent industry events and  
22 government actions have caused  
23 AmerisourceBergen to reevaluate the  
24 process.

1                   So would you agree with me  
2   that recent industry events and  
3   government actions changed  
4   AmerisourceBergen's policies and  
5   procedures?

6                   MS. MCCLURE:   Objection to  
7                   form.

8                   THE WITNESS:   I don't know  
9                   if it was changed.

10   BY MR. CLUFF:

11                  Q.     How about reevaluated?

12                  MS. MCCLURE:   Objection to  
13                  form.

14                  THE WITNESS:   It may have  
15                  been reevaluated.

16   BY MR. CLUFF:

17                  Q.     Do you see where you said,  
18   "caused AmerisourceBergen to reevaluate  
19   this process"?

20                  A.     I see that.

21                  Q.     You don't disagree with that  
22   statement today, do you?

23                  MS. MCCLURE:   Objection to  
24                  form.

1 THE WITNESS: I wrote that  
2 here. I don't know at the time.

3 BY MR. CLUFF:

4 Q. Who are some chain customers  
5 that AmerisourceBergen did business with?

6 A. Walgreens, Sam's Club,  
7 Publix.

8 Q. How about CVS?

9 A. Not to my knowledge.

10 Q. Rite Aid?

11 A. Not while I was there. I  
12 don't think so.

13 Q. Let's look back at  
14 Exhibit-5. My colleague here helped get  
15 my mind right.

16 A. Okay.

17 Q. Okay. So looking at the  
18 slides, if you can go to ABDCMDL00162394.

19 Once again, I'm only showing  
20 you this slide so that we can get some  
21 clarity on dates. I'm not going to ask  
22 you anything about the substance of this  
23 slide at all.

24 I'm looking at the top slide

1 on the page. Go ahead and read that for  
2 me.

3 A. The heading?

4 Q. Read the entire slide, so  
5 you feel comfortable about it and let me  
6 know?

7 MS. MCCLURE: To yourself,  
8 you mean?

9 MR. CLUFF: Yes.

10 MS. MCCLURE: She thought  
11 you meant --

12 THE WITNESS: I see that top  
13 slide, yes.

14 BY MR. CLUFF:

15 Q. So I previously asked you if  
16 you recalled when the Walgreens fine was.

17 Having reviewed that slide,  
18 does it refresh your recollection about  
19 when the fine was against Walgreens?

20 A. This is dated in 2013.

21 Q. Okay. And what's the month  
22 and day?

23 A. June 1st -- or June 11th.

24 Q. Does that correct your

1 recollection on when Walgreens would have  
2 been fined?

3 MS. MCCLURE: Objection to  
4 form.

5 THE WITNESS: Yes.

6 BY MR. CLUFF:

7 Q. Okay. So it appears, based  
8 on that slide, that Walgreens was fined  
9 at some point in the middle of 2013,  
10 correct?

11 A. Yes.

12 Q. And looking at the first  
13 paragraph there, it was a, quote,  
14 Recordbreaking \$80 million penalty to  
15 resolve a U.S. Drug Enforcement  
16 Administration investigation into the  
17 company's dispensing practices in  
18 Florida, correct?

19 MS. MCCLURE: Objection to  
20 form.

21 THE WITNESS: I can see that  
22 written there.

23 BY MR. CLUFF:

24 Q. Was Walgreens a customer of

1 AmerisourceBergen at this time?

2 A. I don't recall when they  
3 onboarded.

4 Q. Are you familiar with a  
5 suspension of Cardinal Health's Lakeland  
6 facilities in March of 2012?

7 MS. MCCLURE: Objection to  
8 form.

9 THE WITNESS: I don't recall  
10 that.

11 BY MR. CLUFF:

12 Q. Do you recall that as a  
13 result of Cardinal Health's suspension in  
14 2012 AmerisourceBergen acquired Walgreens  
15 as a customer?

16 MS. MCCLURE: Objection.  
17 Form. Foundation.

18 THE WITNESS: I don't  
19 recall.

20 BY MR. CLUFF:

21 Q. Do you have any  
22 recollection, based on your time at  
23 AmerisourceBergen -- strike that.

24 You worked at

1 AmerisourceBergen for five years,  
2 correct?

3 A. Correct.

4 MS. MCCLURE: Objection.

5 Asked and answered.

6 BY MR. CLUFF:

7 Q. And during your time, I  
8 believe you testified that you were  
9 responsible for 590 chain due diligence;  
10 is that correct?

11 MS. MCCLURE: Objection.

12 Form.

13 THE WITNESS: Yes.

14 BY MR. CLUFF:

15 Q. Was that part of your job  
16 responsibilities for the entirety of your  
17 career at AmerisourceBergen?

18 A. In part, yes.

19 Q. You said "in part."

20 What do you mean by "in  
21 part"?

22 A. Some of those accounts were  
23 transferred to other investigators.

24 Q. Do you recall which accounts

1       were transferred to other investigators?

2               A.       I do not.

3               Q.       But, generally, you were  
4       responsible for some part of the chain  
5       590 due diligence at AmerisourceBergen,  
6       correct?

7               A.       Correct.

8               Q.       And that was throughout your  
9       five-year career there?

10              A.       Yes.

11                      MS. MCCLURE:  Objection.

12                      Asked and answered.

13       BY MR. CLUFF:

14              Q.       So do you recall, your best  
15       recollection, if Walgreens became a  
16       customer of AmerisourceBergen at the  
17       beginning, middle or end of the five  
18       years you spent at AmerisourceBergen?

19              A.       Towards the beginning, I  
20       believe.

21              Q.       So is that potentially 2012?

22                      MS. MCCLURE:  Objection to  
23       form.

24                      THE WITNESS:  No, not that



1           early.

2       BY MR. CLUFF:

3           Q.       How about early 2013?

4                   MS. MCCLURE:   Objection.

5           Form.

6                   THE WITNESS:   I believe

7           later in 2013.

8       BY MR. CLUFF:

9           Q.       Based on reading this slide  
10       and your recollection as an investigator  
11       at AmerisourceBergen, do you believe that  
12       Walgreens became a customer before or  
13       after you became aware of this fine?

14                  MS. MCCLURE:   Objection.

15       Form.

16                  THE WITNESS:   I don't

17       recall.

18       BY MR. CLUFF:

19           Q.       Okay.   Let's go back to  
20       Exhibit-4, please.

21                   I want to go back to the  
22       second full paragraph on the second page  
23       there.   The one that starts,  
24       Historically.

1 Do you see that?

2 A. I see that.

3 Q. We previously talked about  
4 the fact that, you know, in the first and  
5 second line, you say, Recent industry  
6 events and government actions have caused  
7 Amerisource to reevaluate the process.

8 Do you see that?

9 A. Yes.

10 Q. I'm just trying to give you  
11 a point of reference in the document.

12 So you continue on the next  
13 sentence and you say, In order to protect  
14 our chain partners.

15 Do you see that?

16 A. Yes.

17 Q. We are undertaking a  
18 comprehensive review of the due diligence  
19 files for all of our chain customers.

20 Do you see that?

21 A. I see that.

22 Q. So would you agree with me  
23 that in this sentence you state that, in  
24 order to protect our --

1 AmerisourceBergen -- chain partners,  
2 Amerisource is undertaking a  
3 comprehensive review of the due diligence  
4 files for all chain customers; is that  
5 accurate?

6 A. Yes.

7 Q. The next sentence, you say,  
8 That process will begin with the  
9 gathering of information outlined in the  
10 attached questionnaire from each  
11 individual chain customer.

12 Do you see that?

13 A. I see that.

14 Q. If you look at the first  
15 page, there's nothing attached to this  
16 version of the e-mail.

17 Do you see that?

18 MS. MCCLURE: Objection to  
19 form.

20 THE WITNESS: It's at the  
21 bottom of that e-mail.

22 BY MR. CLUFF:

23 Q. Oh, okay.

24 A. It's indicated.

1           Q.     So there would have been a  
2     document attached to that portion of that  
3     e-mail?

4           A.     Correct.

5           Q.     ABC questionnaire  
6     responses.xlsx?

7           A.     Yes.

8           Q.     And CSRA Form 590 retail  
9     questionnaire\_chain, correct?

10          A.     Correct.

11          Q.     So in the next sentence you  
12     proceed, This process, in conjunction  
13     with our order monitoring program and  
14     ongoing review of customer purchases,  
15     will go a long way towards our goal of  
16     protecting the interests of our valued  
17     customers and AmerisourceBergen.

18                     Correct?

19                     MS. MCCLURE:  Objection.

20                     Misstates the document.

21                     THE WITNESS:  Correct.

22                     MR. CLUFF:  I'm sorry, what  
23     was your objection, Shannon?

24                     MS. MCCLURE:  That it

1 misstates the document.

2 BY MR. CLUFF:

3 Q. Ms. Garcia, do you feel that  
4 I in any way misstated this document when  
5 I read it word for word?

6 A. You're mixing the order  
7 monitoring program with what this  
8 document is.

9 Q. I'm curious. I read this  
10 sentence. I'll read it again for you.

11 This process, in conjunction  
12 with our order monitoring program and  
13 ongoing review of customer purchases,  
14 will go a long way towards our goal of  
15 protecting the interests of our valued  
16 customers and AmerisourceBergen.

17 Did I read that accurately?

18 A. You did.

19 Q. Okay. I have a question for  
20 you.

21 When you referenced the word  
22 "our" in that sentence, does it mean  
23 AmerisourceBergen?

24 A. Yes.

1 Q. And we previously agreed  
2 that this was an e-mail about chain  
3 customers, correct?

4 MS. MCCLURE: Objection.  
5 Form.

6 THE WITNESS: This is about  
7 the Costco Central Fill.

8 BY MR. CLUFF:

9 Q. Let's look at the first  
10 e-mail again -- the first paragraph of  
11 this e-mail, the one at the bottom of  
12 Page 1.

13 MR. MAHADY: Do you mean  
14 Page 3?

15 MR. CLUFF: Nope, I mean  
16 Page 1. The first paragraph of  
17 the e-mail on the bottom of Page  
18 1.

19 BY MR. CLUFF:

20 Q. Do you see that?

21 A. I see that.

22 Q. It says, The last  
23 conversation we had on July 25th, we  
24 discussed the importance of gathering the

1 590 questionnaire demographic information  
2 from, quote, our chain customers, closed  
3 quote.

4 Do you see that?

5 A. I see that.

6 Q. "Our" there, again, refers  
7 to AmerisourceBergen, correct?

8 A. Correct.

9 Q. And we agreed that Costco  
10 was one of AmerisourceBergen's chain  
11 customers, correct?

12 A. Correct.

13 Q. Right. And we previously  
14 discussed that other chain customers  
15 included, for example, Walgreens, right?

16 A. Correct.

17 MS. MCCLURE: Objection to  
18 form.

19 BY MR. CLUFF:

20 Q. So let's go back to the  
21 middle paragraph in that e-mail on the  
22 next page, the one that begins with,  
23 Historically.

24 The last sentence, again,

1 reads: This process, in conjunction with  
2 our order monitoring program and ongoing  
3 review of customer purchases, will go a  
4 long way towards our goal of protecting  
5 the interests of our valued customers and  
6 AmerisourceBergen.

7 So I'm going to -- two  
8 foundational questions there. "Our,"  
9 again, refers to AmerisourceBergen,  
10 correct?

11 A. Correct.

12 Q. Right. And we previously  
13 discussed that this e-mail is about chain  
14 customers, like Costco and Walgreens,  
15 correct?

16 MS. MCCLURE: Objection.  
17 Form.

18 THE WITNESS: Correct.

19 BY MR. CLUFF:

20 Q. Right. Would you agree  
21 there when you say "our valued  
22 customers," you're referring to the chain  
23 customers, correct?

24 MS. MCCLURE: Objection.



1 Form.

2 THE WITNESS: I'm referring  
3 to all of our customers.

4 BY MR. CLUFF:

5 Q. So all of  
6 AmerisourceBergen's customers are valued  
7 customers; is that correct?

8 A. That's correct.

9 Q. Okay. So AmerisourceBergen,  
10 I'm going to quote you on this last line,  
11 had a goal of protecting the interests of  
12 its valued customers, correct?

13 A. Correct.

14 Q. Okay.

15 MR. CLUFF: Is it 12:30?

16 MS. MCCLURE: Please, God.

17 MR. CLUFF: Why don't we  
18 take a break? We'll do a half  
19 hour, 45 minutes for lunch.

20 VIDEO TECHNICIAN: Off the  
21 record at 12:26 p.m.

22 - - -

23 (Whereupon, a luncheon  
24 recess was taken.)

1 - - -

2 VIDEO TECHNICIAN: We're  
3 back on the record at 1:18 p.m.

4 BY MR. CLUFF:

5 Q. Ms. Garcia, thank you for  
6 coming back. We're back on the record,  
7 so just to remind you, you're still under  
8 oath.

9 Do you understand that?

10 A. Yes.

11 Q. When we broke, we were going  
12 through Exhibit-4, which is the e-mail  
13 between you and Joe Tomkowitz about the  
14 Costco Central Fill customer.

15 A. Yes.

16 Q. Okay. So I just had one  
17 follow-up question.

18 We talked, on Page 2, that  
19 last sentence that ends, Our goal of  
20 protecting the interests of our valued  
21 customers and AmerisourceBergen.

22 Do you see that?

23 A. I see that.

24 Q. I have a tiny question for

1     you.

2                     This e-mail was written by  
3     you in August of 2013, correct?

4             A.     Yes.

5             Q.     And that was roughly two  
6     months after that slide we looked at  
7     about the Walgreens penalty, correct?

8             A.     Correct.

9             Q.     Okay. Thank you. That's  
10    all I had for you on that, so we can set  
11    that aside for a second.

12                    I'd like to hand you a copy  
13    of your FY '16 performance evaluation.

14                             -   -   -

15                             (Whereupon,  
16                    AmerisourceBergen-Garcia  
17                    Exhibit-6, ABDCMDL00364844-851,  
18                    was marked for identification.)

19                             -   -   -

20    BY MR. CLUFF:

21             Q.     I'll mark it as Exhibit-6.  
22    I'll give you a chance to review that.

23                             Some of the documents we'll  
24    be talking about this afternoon, as I

1 maybe mentioned to you earlier, are going  
2 to be a little longer than I would  
3 normally discuss with you.

4 I think it's important that  
5 you have the opportunity to use them. If  
6 you're going to take a long time to read  
7 them, so we can give you enough time, let  
8 me know, and maybe we'll consider going  
9 off the record so you can read them while  
10 we're all sitting here waiting.

11 But I'd prefer not to just,  
12 like, burn minutes in the depo if you're  
13 amenable to that.

14 MS. MCCLURE: We're not  
15 going to agree to go off the  
16 record. She can read --

17 MR. CLUFF: You don't have  
18 to agree.

19 BY MR. CLUFF:

20 Q. Maybe I can help you.

21 We can just lay some  
22 foundation about this document, Liz, like  
23 we've done with some others.

24 So looking at the top there,

1 do you see that, Garcia, Elizabeth A., is  
2 at the top left corner?

3 A. Yes.

4 Q. And that's obviously your  
5 name, correct?

6 A. Correct.

7 Q. All right. And in the top  
8 right corner, it says, FY '16 performance  
9 evaluation.

10 Do you see that?

11 A. I see that.

12 Q. And then do you see  
13 underneath that, it says,  
14 10/01/2015-09/30/2016?

15 A. I see that.

16 Q. Okay. I just want to  
17 establish your understanding about the  
18 performance evaluation process at  
19 AmerisourceBergen, beginning with the  
20 time period.

21 So it looks like at  
22 AmerisourceBergen you would have received  
23 a performance evaluation in sort of the  
24 third quarter of every year; does that

1       seem accurate?

2               A.       Probably the fourth quarter.

3       The fiscal year starts --

4               Q.       I'm bad at math.

5                       So fourth quarter sounds

6       accurate, right?

7               A.       Maybe.

8               Q.       It happened at the end of

9       the year, how about that?

10              A.       Correct.

11              Q.       Okay. And the performance

12       evaluation would have been for work that

13       you completed in the prior year?

14              A.       Yes.

15              Q.       Okay. And how did the

16       performance evaluation process work,

17       generally?

18              A.       So we would go in and add

19       our comments about our own performance,

20       and then followed by the supervisor.

21              Q.       Okay. And this document in

22       front of you, based on the title, appears

23       to be a performance evaluation for fiscal

24       year 2016?

1 A. Yes.

2 Q. Okay. And if you look under  
3 your name, there is a line that says,  
4 Evaluated by Eric Cherveney.

5 Do you see that?

6 A. I see that.

7 Q. So would Eric Cherveney have  
8 conducted this performance evaluation  
9 with you?

10 A. Yes.

11 Q. All right. And based on  
12 your prior testimony, it's your  
13 understanding that you would have been  
14 provided a chance to make comments in  
15 preparation for your evaluation, it  
16 sounds like?

17 A. Correct.

18 Q. And then would you have gone  
19 over those comments with Eric Cherveney?

20 A. Yes.

21 Q. Okay. Do you know if he got  
22 a chance to write comments before the two  
23 of you would have gone over them?

24 MS. MCCLURE: Objection to

1 form.

2 THE WITNESS: Yes.

3 BY MR. CLUFF:

4 Q. Okay. Did you ever look at  
5 a document like this during a performance  
6 evaluation?

7 MS. MCCLURE: Objection to  
8 form.

9 THE WITNESS: Yes.

10 BY MR. CLUFF:

11 Q. So have you seen this  
12 document before, then?

13 A. I have.

14 Q. Okay. You know, looking  
15 through it, just generally, does it  
16 appear to be a true and correct copy of a  
17 document that you would have reviewed in  
18 2016 with Eric Cherveney?

19 MS. MCCLURE: Objection to  
20 form.

21 THE WITNESS: It appears to  
22 be, yes.

23 BY MR. CLUFF:

24 Q. So looking at the first



1 page, there's a line that says, Overall  
2 ratings and comments.

3 Do you see that?

4 A. Overall evaluation?

5 Q. I'm looking at overall  
6 ratings and comments, just above manager.

7 A. Got you. Yes.

8 Q. And then underneath that, it  
9 says, Manager overall evaluation.

10 A. Yes.

11 Q. And so that would have been  
12 Eric Cherveney's comments?

13 A. Yes.

14 Q. And then underneath that,  
15 there's a line that says, Employee  
16 overall evaluation.

17 Do you see that?

18 A. I see that.

19 Q. Are those your comments,  
20 then?

21 A. Yes.

22 Q. Just stepping back for a  
23 second, do you recall the 2016 year, in  
24 terms of your work?

1 MS. MCCLURE: Objection to  
2 form.

3 THE WITNESS: Let's see,  
4 that's fiscal year 2016.  
5 Vaguely.

6 BY MR. CLUFF:

7 Q. Were you enjoying your work  
8 at that point in time?

9 MS. MCCLURE: Objection to  
10 form.

11 THE WITNESS: Yes.

12 BY MR. CLUFF:

13 Q. We previously talked about  
14 personality disagreements between you and  
15 Eric Cherveney.

16 By fiscal year 2016, had  
17 those developed, or were they ongoing?

18 A. Those were ongoing off and  
19 on.

20 Q. I want to start with your  
21 comments under, Employee overall  
22 evaluation.

23 Do you see that on the page?

24 A. I see that.

1           Q.     The first sentence, I'll  
2     paraphrase, it says that you believe  
3     you're meeting core values and business  
4     objectives.

5                     Do you see that?

6           A.     I see that.

7           Q.     What were the core values,  
8     as you understood them, at this time?

9           A.     I don't recall.

10          Q.     Do you have an understanding  
11     today, just generally, of what  
12     AmerisourceBergen's core values are?

13                     MS. MCCLURE:  Objection to  
14     form.

15                     THE WITNESS:  I don't  
16     recall.

17     BY MR. CLUFF:

18          Q.     My question was a little  
19     different.  And I don't want to nitpick  
20     with you, but I'm going to rephrase it so  
21     we're both a little clearer.

22                     I understand you don't  
23     recall, in 2016, what the core values  
24     are.  But I'm curious if you have a

1     general understanding, today as you sit  
2     here, what AmerisourceBergen's core  
3     values are?

4                     MS. MCCLURE:   Object to  
5                     form.

6                     THE WITNESS:   I don't  
7                     recall.   Just ethical and  
8                     integrity.

9     BY MR. CLUFF:

10            Q.     I could not quite hear you.  
11                 Did you say just ethical  
12            integrity?

13            A.     Being ethical and having  
14            integrity.

15            Q.     Being ethical and having  
16            integrity?

17            A.     Yep.

18            Q.     You also mentioned business  
19            objectives in that sentence.

20                    Do you have a recollection,  
21            in 2016, what AmerisourceBergen's  
22            business objectives were?

23            A.     I do not.

24            Q.     Is AmerisourceBergen a

1 for-profit company?

2 A. Yes.

3 Q. Do they make a profit from  
4 distributing pharmaceutical drugs?

5 MS. MCCLURE: Objection to  
6 form.

7 THE WITNESS: I assume so.  
8 That's their business model.

9 BY MR. CLUFF:

10 Q. So would one of their  
11 business objectives be to continue  
12 profiting from the sale of pharmaceutical  
13 drugs?

14 MS. MCCLURE: Objection to  
15 form.

16 THE WITNESS: Yes.

17 BY MR. CLUFF:

18 Q. Did you ever have any  
19 conversations with anybody at  
20 AmerisourceBergen, at any time, about  
21 AmerisourceBergen's profits or  
22 performance as a business related to  
23 pharmaceutical sales?

24 A. I don't recall.

1 Q. Let's look at the next  
2 sentence in your overall comments.

3 It says, I do need to be  
4 challenged in order to stay engaged and  
5 am open to new assignments not mentioned  
6 here.

7 Were you bored with your job  
8 at AmerisourceBergen?

9 MS. MCCLURE: Objection.

10 THE WITNESS: No.

11 BY MR. CLUFF:

12 Q. Did you feel like you were  
13 not challenged in your job at  
14 AmerisourceBergen?

15 A. I was challenged in my job.

16 Q. How come you wrote, I do  
17 need to be challenged in order to stay  
18 engaged?

19 A. That's just me as a general  
20 observation.

21 Q. Were you starting to  
22 disengage from AmerisourceBergen by  
23 September 2016?

24 MS. MCCLURE: Objection to

1 form.

2 THE WITNESS: Not that I  
3 recall.

4 BY MR. CLUFF:

5 Q. You mention, new assignments  
6 not mentioned here.

7 Do you have any idea of what  
8 new assignments you were looking for in  
9 2016?

10 MS. MCCLURE: Objection to  
11 form.

12 THE WITNESS: I don't recall  
13 what I meant by that.

14 BY MR. CLUFF:

15 Q. The next sentence you say, I  
16 believe being able to fully learn more  
17 about BOBJ -- that's B-O-B-J -- and how  
18 to use it as a data pooling tool, i.e.,  
19 building custom templates, reports, et  
20 cetera, for subpoenas and other purposes  
21 would be a welcome challenge.

22 Do you have a recollection  
23 of what BOBJ was?

24 A. BOBJ was a database. It

1 pulled from the SAP database and visually  
2 presented data in a more simplified  
3 visual manner that we could pull. So  
4 inquiries.

5 Q. We've previously -- strike  
6 that.

7 Did you know who was  
8 responsible for creating the BOBJ  
9 database that you've referred to?

10 MS. MCCLURE: Objection to  
11 form.

12 THE WITNESS: No.

13 BY MR. CLUFF:

14 Q. Was there anybody at  
15 AmerisourceBergen who was the most expert  
16 at dealing with the BOBJ database?

17 A. For our team, I think it was  
18 Lino.

19 Q. So he would have been --  
20 would he have been the person you went  
21 to, to learn more about using BOBJ for  
22 these tasks you described here?

23 A. Yes.

24 Q. Do you know how long he's



1       been with AmerisourceBergen?

2               A.       I know he was a compliance  
3       manager in New Jersey before he joined  
4       our team, but I don't know how long.

5               Q.       Let's now look at Mr.  
6       Cherveney's overall evaluations that's  
7       over yours.

8                       He gives you a rating, Fully  
9       meets expectations.

10                      And in the comment, the  
11       first line is, Overall, this has been a  
12       very challenging reporting cycle for Liz,  
13       as well as the diversion control team as  
14       a whole, on a number of fronts.

15                      Do you see that?

16                      Do you see that?

17               A.       I see that.

18               Q.       Do you recall 2016 being a  
19       particularly challenging reporting year  
20       for you?

21                      MS. MCCLURE:   Objection to  
22       form.

23                      THE WITNESS:   I believe that  
24       was the first full year of the new

1 revised OMP system.

2 BY MR. CLUFF:

3 Q. What was challenging about  
4 the revised OMP system?

5 A. Just implementation and  
6 training the divisions.

7 Q. Anything else?

8 A. A lot of volume with  
9 projects. A lot of onboarding new  
10 customers.

11 Q. Sorry. Did you finish your  
12 answer?

13 A. Yes.

14 Q. Okay. What do you mean by  
15 "a lot of volume with projects"?

16 A. A lot of 590s being -- that  
17 are coming in, from what I remember.

18 Q. Are you familiar with the  
19 distributor due diligence project at  
20 AmerisourceBergen?

21 MS. MCCLURE: Objection to  
22 form.

23 THE WITNESS: Vaguely.

24 BY MR. CLUFF:

1           Q.     Do you have a recollection  
2     of what it is, or what it was?

3           A.     No.

4           Q.     Are you familiar with the  
5     Form 590 project at AmerisourceBergen?

6           A.     Yes.

7           Q.     What was that?

8           A.     That was collecting 590s  
9     from new and existing customers.

10          Q.     Do you recall why  
11     AmerisourceBergen was collecting the  
12     590s?

13          A.     To complete a due diligence  
14     file.

15          Q.     So they were missing due  
16     diligence files?

17                   MS. MCCLURE:  Objection to  
18     form.

19                   THE WITNESS:  No.  The due  
20     diligence files existed, and there  
21     were all kinds of documents in  
22     there, but collecting the 590 was  
23     just one piece.

24     BY MR. CLUFF:

1 Q. Was there also some missing  
2 information in Lawtrac associated with  
3 the 590s?

4 MS. MCCLURE: Objection to  
5 form.

6 THE WITNESS: In Lawtrac, if  
7 those -- if the 590s were not in  
8 there, then we were collecting  
9 them.

10 BY MR. CLUFF:

11 Q. And is that one of the  
12 projects you were working on in 2016?

13 A. I believe so, yes.

14 Q. When you left in 2017, was  
15 that project completed?

16 A. I don't believe so.

17 Q. Do you know what percentage  
18 of that project had been completed?

19 A. I do not.

20 Q. But as a general rule, the  
21 due diligence files were incomplete,  
22 right?

23 MS. MCCLURE: Objection to  
24 form.

1 THE WITNESS: It was an  
2 ongoing process to collect forms.

3 BY MR. CLUFF:

4 Q. Collect forms that were  
5 missing, correct?

6 MS. MCCLURE: Objection to  
7 form.

8 THE WITNESS: Or other  
9 business correspondence.

10 BY MR. CLUFF:

11 Q. But the 590 forms and the  
12 other business correspondence that you  
13 mentioned, those were missing from the  
14 due diligence files?

15 MS. MCCLURE: Objection to  
16 form.

17 THE WITNESS: Not  
18 necessarily.

19 BY MR. CLUFF:

20 Q. What do you mean "not  
21 necessarily"?

22 A. I mean, there could have  
23 been other business forms in there, in  
24 the file.

1           Q.     So some business forms were  
2     in the file, but some were missing,  
3     correct?

4                     MS. MCCLURE:  Objection to  
5     form.

6                     THE WITNESS:  Depending on  
7     the customer.

8     BY MR. CLUFF:

9           Q.     So the answer is yes,  
10    depending on the customer?

11                    MS. MCCLURE:  Same  
12    objection.

13                    THE WITNESS:  Yes.

14    BY MR. CLUFF:

15           Q.     You also mentioned  
16    onboarding new customers.

17                    What customers do you recall  
18    onboarding during that time?

19           A.     Too many to recall.

20           Q.     What kinds of categories of  
21    customers were you onboarding?

22                    MS. MCCLURE:  Objection to  
23    form.

24                    THE WITNESS:  All kinds of

1 business models.

2 BY MR. CLUFF:

3 Q. What are some examples of  
4 different business models that  
5 AmerisourceBergen onboards as customers?

6 A. Hospitals, hospices,  
7 independent pharmacies.

8 Q. How about chain pharmacies?

9 A. Chain pharmacies.

10 Q. What's the process of  
11 onboarding a customer look like?

12 MS. MCCLURE: Objection to  
13 form.

14 THE WITNESS: A new  
15 customer? A new customer fills  
16 out the 590 and gives us any other  
17 pertinent information we ask for,  
18 and then we put that in the file  
19 and we verify that information.

20 BY MR. CLUFF:

21 Q. What kind of other pertinent  
22 information would we ask for?

23 A. Copies of licenses, since we  
24 only distribute to licensed customers.

1 Q. How about prescriber  
2 information, did you ask for prescriber  
3 information?

4 A. On the 590 we did.

5 Q. How about information  
6 related to prescriptions written by  
7 prescribers, did you ask for that?

8 MS. MCCLURE: Objection to  
9 form.

10 THE WITNESS: Not for  
11 specific prescriptions, no.

12 BY MR. CLUFF:

13 Q. Is your answer that you  
14 didn't obtain prescription information as  
15 a part of the new customer onboarding?

16 MS. MCCLURE: Objection to  
17 form.

18 THE WITNESS: That's  
19 correct.

20 BY MR. CLUFF:

21 Q. But did AmerisourceBergen  
22 ever obtain prescription information as  
23 part of its due diligence process?

24 MS. MCCLURE: Objection to



1 form.

2 THE WITNESS: Not as part of  
3 its due diligence process, no.

4 BY MR. CLUFF:

5 Q. What's a pharmacy big  
6 report?

7 A. It's a dispensing data  
8 report.

9 Q. And is that a part of  
10 AmerisourceBergen's due diligence  
11 process?

12 A. Only in special  
13 circumstances.

14 Q. But it is a part of the due  
15 diligence process, correct?

16 A. No, not as a regular thing.

17 Q. I'm not qualifying between  
18 regular or special circumstance. I'm  
19 talking about just the general due  
20 diligence process that AmerisourceBergen  
21 engages in.

22 Is a pharmacy big report a  
23 part of the due diligence process?

24 A. No.

1 MS. MCCLURE: Objection to  
2 form.

3 BY MR. CLUFF:

4 Q. What process is it a part  
5 of?

6 A. Special circumstances, more  
7 for existing customers.

8 Q. Okay. What special  
9 circumstances are you talking about?

10 A. To double check and monitor  
11 certain accounts, and to gather that  
12 information as part of the file.

13 Q. How would you identify these  
14 certain accounts that you would be double  
15 checking and monitoring?

16 A. Just to monitor their  
17 ordering programs and seeing if there  
18 were any unusual purchases.

19 Q. That sounds more like what  
20 you were monitoring. I'm asking how you  
21 identified the accounts that you would be  
22 monitoring.

23 Can you explain that to me?

24 MS. MCCLURE: Objection to

1 form.

2 THE WITNESS: Looking at my  
3 region and seeing if anything  
4 sticks out for any customer.

5 BY MR. CLUFF:

6 Q. And what would stick out for  
7 a customer that would make you want to  
8 look for a pharmacy big report?

9 MS. MCCLURE: Objection to  
10 form.

11 THE WITNESS: Perhaps if --  
12 let's see -- if they were ranked  
13 high in that state, for example.

14 BY MR. CLUFF:

15 Q. Ranked high for what?

16 A. For whatever drug it was I  
17 was looking at.

18 Q. What are some examples of  
19 drugs that you would have looked at?

20 A. Hydrocodone, Oxycodone 30.

21 Q. And are those drugs that  
22 were particularly susceptible to  
23 diversion?

24 MS. MCCLURE: Objection to

1 form.

2 THE WITNESS: Yes.

3 BY MR. CLUFF:

4 Q. So if a customer in your  
5 region stood out to you because of  
6 purchases of those drugs, you would  
7 potentially obtain a pharmacy big report?

8 MS. MCCLURE: Objection to  
9 form.

10 THE WITNESS: Depending on  
11 the totality of the circumstances.  
12 I mean, it might have been just a  
13 one-off.

14 BY MR. CLUFF:

15 Q. I've been saying pharmacy  
16 big report, I've seen that abbreviated  
17 PBR.

18 Are those the same thing?

19 A. Yes.

20 Q. Do you want to call them  
21 PBR, or should we stay with pharmacy big  
22 report?

23 A. We can call it dispensing  
24 data.

1 Q. But I've seen it referenced  
2 in your documents as pharmacy big report.

3 A. That's slang for a  
4 dispensing report.

5 Q. So when you obtained a PBR,  
6 that included prescription data, correct?

7 MS. MCCLURE: Objection to  
8 form.

9 THE WITNESS: Yes.

10 BY MR. CLUFF:

11 Q. It also included  
12 de-identified patient data; is that  
13 right?

14 A. Yes.

15 Q. Where did AmerisourceBergen  
16 obtain de-identified patient data?

17 A. Where did they obtain it?

18 Q. Yes.

19 A. We would ask the customer  
20 for it directly, and they would assign  
21 the de-identification.

22 Q. Did the PBR, the pharmacy  
23 big report, also tell you which doctors  
24 were writing prescriptions on behalf --

1       that were being filled at  
2       AmerisourceBergen customers?

3                       MS. MCCLURE:   Objection to  
4                       form.

5                       THE WITNESS:   They were  
6                       writing prescriptions for that  
7                       pharmacy, yes.

8       BY MR. CLUFF:

9               Q.       Well, I think they weren't  
10       writing prescriptions for the pharmacy,  
11       but they wrote scripts that got filled at  
12       the pharmacy?

13               A.       Yes.

14               Q.       So if you pulled a PBR, you  
15       could see, I'm just trying to understand  
16       here, at any given pharmacy in your  
17       region, what doctors were writing scripts  
18       that got filled, correct?

19                       MS. MCCLURE:   Objection to  
20                       form.

21                       THE WITNESS:   Correct.

22       BY MR. CLUFF:

23               Q.       And then you could also see  
24       de-identified patient data for who they

1 wrote prescriptions to, correct?

2 A. De-identified. We didn't  
3 know who those people were.

4 Q. So it would be like patient  
5 1, patient 2?

6 A. Correct.

7 Q. Understood.

8 And you used that as a part  
9 of special circumstances when you would  
10 look at customers in your region?

11 MS. MCCLURE: Objection to  
12 form.

13 THE WITNESS: Correct.

14 BY MR. CLUFF:

15 Q. Were you looking at those  
16 two identified potential sources for  
17 diversion?

18 MS. MCCLURE: Objection to  
19 form.

20 THE WITNESS: Restate the  
21 question.

22 BY MR. CLUFF:

23 Q. Sure.

24 Were you looking at

1     prescriber big reports as -- in order to  
2     identify potential sources for diversion?

3                     MS. MCCLURE:  Objection to  
4                     form.

5                     THE WITNESS:  No.

6     BY MR. CLUFF:

7                     Q.     Why were you looking at  
8     them?

9                     A.     For pattern and drug  
10    combinations.

11                    Q.     Aren't those red flags for  
12    potential diversion?

13                    MS. MCCLURE:  Objection to  
14                    form.

15                    THE WITNESS:  Not  
16                    necessarily.

17    BY MR. CLUFF:

18                    Q.     Are they a part of the  
19    totality of circumstances that  
20    AmerisourceBergen employees looked at in  
21    order to identify potential diversion?

22                    A.     It could be.

23                    MS. MCCLURE:  Objection to  
24                    form.



1 BY MR. CLUFF:

2 Q. Please give your counsel  
3 just a second. I know, we're all, you  
4 know, getting along. Give her a second  
5 just to object, so we can all be clear.

6 So just to kind of walk back  
7 and make sure I understand. If there was  
8 a potential spike or a deviation from a  
9 normal ordering pattern in your region,  
10 you would potentially pull a prescriber  
11 big report; is that correct?

12 MS. MCCLURE: Objection to  
13 form. Misstates the witness's  
14 testimony.

15 THE WITNESS: Depends on  
16 what it was. Sometimes; not all  
17 the time.

18 BY MR. CLUFF:

19 Q. Are there any other reasons  
20 why you would pull a prescriber big  
21 report?

22 A. No.

23 Q. So those are basically the  
24 instances in which you would pull the

1 report?

2 MS. MCCLURE: Objection to  
3 form.

4 THE WITNESS: Correct.

5 BY MR. CLUFF:

6 Q. Okay. And we agreed that  
7 changes in ordering pattern and deviation  
8 from an old pattern are two of the things  
9 that AmerisourceBergen employees look at  
10 in order to identify potential diversion,  
11 correct?

12 MS. MCCLURE: Objection to  
13 form.

14 THE WITNESS: Restate that  
15 question.

16 BY MR. CLUFF:

17 Q. Sure.

18 I think AmerisourceBergen  
19 takes a totality-of-the-circumstances  
20 approach to identifying suspicious  
21 orders; is that correct?

22 MS. MCCLURE: Objection to  
23 form.

24 THE WITNESS: If something

1 hits the algorithm, it's an order  
2 of interest. And then we have to  
3 go in and look at it and decide if  
4 it is unusual size, frequency or  
5 pattern.

6 BY MR. CLUFF:

7 Q. Right. So unusual size,  
8 frequency and pattern are part of the way  
9 that AmerisourceBergen identifies  
10 potentially suspicious orders; is that  
11 what you're saying?

12 MS. MCCLURE: Objection to  
13 form.

14 THE WITNESS: If it hits the  
15 algorithm, it's an order of  
16 interest. And then we go in and  
17 actually see, potentially, what's  
18 happening with that order.

19 BY MR. CLUFF:

20 Q. And you go through that  
21 process to determine whether or not an  
22 order that hit the algorithm is  
23 suspicious, correct?

24 A. Correct.

1           Q.     So when that happens, you  
2     sometimes pull a prescriber big -- a  
3     pharmacy big report, correct?

4                     MS. MCCLURE:  Objection to  
5     form.

6                     THE WITNESS:  Sorry,  
7     restate.

8     BY MR. CLUFF:

9           Q.     You said when an order hits  
10    OMP, then you look at the totality of the  
11    circumstances to determine whether or not  
12    an order of interest is of unusual size,  
13    pattern and frequency.

14                    Did I summarize that  
15    correctly?

16                    MS. MCCLURE:  Objection to  
17    form.

18                    THE WITNESS:  I think so.

19    BY MR. CLUFF:

20           Q.     Okay.  I'm not trying to  
21    trick you.  I'm just trying to understand  
22    the process.

23                    And I asked if that was a  
24    part of AmerisourceBergen's effort to

1 identify suspicious orders from orders  
2 that hit threshold; is that correct?

3 MS. MCCLURE: Objection to  
4 form.

5 THE WITNESS: I think so.

6 BY MR. CLUFF:

7 Q. And I'm trying to  
8 understand, is that a situation in which  
9 sometimes you would obtain a pharmacy big  
10 report as part of your responsibilities?

11 MS. MCCLURE: Same.

12 THE WITNESS: A pharmacy big  
13 report, you mean?

14 BY MR. CLUFF:

15 Q. Yes.

16 A. That could be one factor.

17 Q. What are some other factors?

18 A. Just looking at overall  
19 pattern; geographically, where they're  
20 at; what drugs they've ordered in the  
21 last three months.

22 Q. And that -- just so I  
23 understand the content, that pharmacy big  
24 report included prescriber data and

1 de-identified patient data, correct?

2 A. Correct.

3 Q. Let's go back to Exhibit-6,  
4 I believe.

5 In the second sentence, you  
6 write that -- excuse me, this is Eric  
7 Cherveney -- Our team was tasked with  
8 multiple projects to be completed in the  
9 2017 performance cycle, while  
10 simultaneously trying to learn and fully  
11 utilize the revised OMP program, along  
12 with analytical reporting associated with  
13 it.

14 MR. CLUFF: Do you have an  
15 objection, Shannon?

16 MS. MCCLURE: No, you  
17 haven't asked a question, so I'm  
18 waiting for the question.

19 MR. CLUFF: Didn't get there  
20 yet.

21 MS. MCCLURE: Right.

22 BY MR. CLUFF:

23 Q. Looking at that first  
24 portion of the sentence, you identified

1 being tasked with multiple projects to be  
2 completed in the 2017 performance cycle.

3 Do you recall what those  
4 were?

5 MS. MCCLURE: Form.

6 THE WITNESS: That could be  
7 part of the 590 project.

8 What else?

9 I don't recall any other  
10 projects. I'm sure there were,  
11 but I don't recall.

12 BY MR. CLUFF:

13 Q. And then the next sentence,  
14 it says, Liz did a commendable job in  
15 supporting our team during this period  
16 and played an important role as the DCT  
17 training lead.

18 Do you see that?

19 A. I see that.

20 Q. The next sentence, because  
21 Mr. Cherveny continues to praise you, he  
22 says, She also consistently demonstrates  
23 herself to be a very strong investigator  
24 and is one of our more experienced team

1 members.

2 Do you see that?

3 A. I see that.

4 Q. Do you feel like that was an  
5 accurate statement, that you were a  
6 strong investigator?

7 A. Yes.

8 Q. And the next sentence, it  
9 says, Liz also underwent a formal written  
10 counseling during this performance cycle.

11 Do you see that?

12 A. I see that.

13 Q. Do you recall that?

14 A. I do.

15 Q. Do you recall what that was  
16 about?

17 A. It was about a disagreement  
18 with a colleague.

19 Q. Do you recall who the  
20 colleague was?

21 A. Kevin Kreutzer.

22 Q. And what was the  
23 disagreement about?

24 A. Workload.



1 Q. What do you mean by that?

2 A. Kevin would pass some leads  
3 on to me and my region that weren't part  
4 of my region.

5 Q. And so what happened in that  
6 situation?

7 A. We had a disagreement.

8 Q. Do you remember what was  
9 said, or what happened?

10 A. I do not.

11 Q. Okay. The rest of that  
12 sentence reads, For being confrontational  
13 with members of the DCT, as well as with  
14 internal business partners.

15 The reference to  
16 "confrontational with members of the  
17 DCT," is that the comment you made about  
18 Kevin Kreutzer?

19 MS. MCCLURE: Objection to  
20 form.

21 THE WITNESS: That's the  
22 isolated incident, yes.

23 BY MR. CLUFF:

24 Q. Isolated incident.

1                   As well as within the  
2     internal business partners.

3                   Do you see that?

4           A.     I see that.

5           Q.     Do you know what is meant by  
6     "internal business partners"?

7           A.     I do not.

8           Q.     Do you know why Eric  
9     Cherveney would have written that?

10          A.     I do not.

11          Q.     I am going to hand you a  
12     document, it's the corrective action.

13                   MR. BRODSKY: Sterling, can  
14     we get a Bates number for  
15     Exhibit-6?

16                   MR. CLUFF: Yeah. Sure. I  
17     thought I gave it at the  
18     beginning. It's ABDCMDL00364844.

19                   MR. BRODSKY: Thank you.

20                   MR. CLUFF: This one that  
21     I'm going to hand her -- I'm going  
22     to hand you, Ms. Garcia, is  
23     Exhibit-7. ABDCMDL00364861.

24                                   -   -   -

1 (Whereupon,  
2 AmerisourceBergen-Garcia  
3 Exhibit-7, ABDCMDL00364861-864,  
4 was marked for identification.)

5 - - -

6 BY MR. CLUFF:

7 Q. I just want to, first off,  
8 establish if you've seen this before. I  
9 confess I've never worked at a company as  
10 large as AmerisourceBergen, so I don't  
11 know how things work.

12 A. I have seen it before, yes.

13 Q. If you look at the back  
14 page -- excuse me, the second-to-last  
15 page, the one that ends 863.

16 It looks like there's a line  
17 there that says, Associate signature?

18 A. Yes.

19 Q. So you would have discussed  
20 this with your supervisor and then signed  
21 it?

22 MS. MCCLURE: Objection to  
23 form.

24 THE WITNESS: Yes.

1 MS. MCCLURE: Assumes facts  
2 not in evidence.

3 BY MR. CLUFF:

4 Q. Let's go back to the first  
5 page.

6 So let's -- just looking  
7 through, let's establish the foundation  
8 for this.

9 The associate name that's  
10 Elizabeth Garcia, that's you, correct?

11 A. Yes.

12 Q. Do you see the date, January  
13 21, 2016?

14 A. I see that.

15 Q. And do you see, a couple of  
16 lines down, it says, Incident date,  
17 January 21, 2016?

18 Do you see that?

19 A. Yes.

20 Q. You previously mentioned the  
21 disagreement you had with Kevin Kreutzer.

22 A. Yes.

23 Q. Did that disagreement happen  
24 on this date?

1 A. I don't recall.

2 Q. Okay. So let's just go down  
3 a page there. There's a section that  
4 says, Reason for corrective action.

5 Do you see that?

6 A. Yes.

7 Q. And there's a check box next  
8 to rules violation that's got an X in it.

9 Do you see that?

10 A. I see that.

11 Q. Do you understand that this  
12 corrective action was about a rule  
13 violation at AmerisourceBergen?

14 A. That's what it states here.

15 Q. The next box down says, Type  
16 of corrective action. And there's a  
17 check box next to written counseling.

18 Do you see that?

19 A. I see that.

20 Q. Did you also have verbal  
21 counseling with Eric Cherveney in  
22 conjunction with this corrective action,  
23 if you recall?

24 A. I think so.

1 Q. Okay. Let's look to the  
2 next page.

3 There's a paragraph there  
4 that you see says, Over the course of the  
5 2015 calendar year?

6 A. Yes.

7 Q. If you look at the bottom of  
8 the page just before it, there's a Number  
9 1 that says, Statement of the problem.

10 MS. MCCLURE: The first  
11 page?

12 MR. CLUFF: Yes. Sorry.

13 THE WITNESS: Okay.

14 BY MR. CLUFF:

15 Q. So it says, Number 1,  
16 Statement of the problem.

17 And then turning the page,  
18 would this text here be a statement of  
19 what Eric Cherveney believed to be the  
20 problem, in your experience?

21 A. Yes.

22 Q. Go ahead and read that for  
23 me silently to yourself, and then I'd  
24 like to ask you some questions about it.

1           A.       Okay.

2           Q.       So starting at the top of  
3       that paragraph, you say, Over the course  
4       of the 2015 calendar year, Elizabeth  
5       Garcia, Liz, has been counseled on  
6       multiple occasions regarding instances of  
7       being confrontational and/or  
8       argumentative with diversion control team  
9       members.

10                   Do you see that?

11           MS. MCCLURE:   Form.

12           MR. CLUFF:    What's your  
13       objection to the form?

14           MS. MCCLURE:   You said,  
15       starting at the top of the  
16       paragraph, "you said."

17           MR. CLUFF:    You're right.

18       BY MR. CLUFF:

19           Q.       So let's be clear.

20                   Eric Cherveney is the one  
21       writing this, right, Liz?

22           A.       Correct.

23           Q.       So Eric says -- or writes,  
24       Over the course of the 2015 calendar

1 year, Elizabeth Garcia, Liz, has been  
2 counseled on multiple occasions regarding  
3 instances of being confrontational and/or  
4 argumentative with diversion control team  
5 members -- there's an abbreviation, DCT,  
6 and then in parentheses -- including  
7 myself, closed parentheses, as well as  
8 with associates outside of the CSRA  
9 department.

10 Do you recall multiple  
11 instances of being confrontational and  
12 argumentative with team members?

13 A. One team member that left.

14 Q. Who was that?

15 A. Eric Martin.

16 Q. Why were you being  
17 confrontational with Eric Martin?

18 A. Again, workload, looking at  
19 suspicious orders, I think is what it  
20 was.

21 Q. And what was the workload  
22 issue?

23 A. I don't recall.

24 Q. Eric writes, Including



1     myself.

2                     Do you recall instances of  
3     being confrontational and/or  
4     argumentative with Eric Cherveney?

5             A.     Having disagreements with  
6     Eric, yes.

7             Q.     What were those  
8     disagreements about?

9             A.     About projects, training,  
10    those types of things.

11            Q.     Did you ever have an  
12    instance where you were making a decision  
13    about a Form 590 that Eric agreed with?

14                   MS. MCCLURE:  Objection to  
15    form.

16                   THE WITNESS:  No, he made  
17    those decisions.

18    BY MR. CLUFF:

19            Q.     Did you ever have a  
20    disagreement with Eric Cherveney about a  
21    decision you were making regarding a  
22    suspicious order?

23                   MS. MCCLURE:  Objection to  
24    form.

1 THE WITNESS: No, I don't  
2 recall.

3 BY MR. CLUFF:

4 Q. How about an order of  
5 interest that you believed was  
6 suspicious?

7 A. No.

8 Q. Did you ever have any  
9 disagreements with Eric Cherveney about  
10 pharmacies that you believed should have  
11 been investigated and he disagreed?

12 A. No.

13 Q. This says, As well as with  
14 associates outside of the CSRA  
15 department.

16 Do you recall having  
17 disagreements with associates out of the  
18 CSRA department?

19 A. I do not.

20 Q. What would qualify as an  
21 associate outside of the CSRA department?

22 A. Any of the other functional  
23 groups.

24 Q. What are those?

1           A.       Sales.

2           Q.       What else?

3           A.       IT. I don't know.

4           Q.       Did you ever have  
5 disagreements with IT?

6           A.       No.

7           Q.       How about sales?

8           A.       Yes.

9           Q.       What were your disagreements  
10 with sales?

11          A.       Over deadlines. You know,  
12 they wanted things approved now.

13          Q.       Did you ever have  
14 disagreements with salespeople about  
15 customers they wanted onboarded that you  
16 disagreed with?

17          A.       No.

18          Q.       Do you ever recall being  
19 confrontational or argumentative with the  
20 sales associates?

21          A.       Over deadlines.

22          Q.       It says, This area of  
23 concern was specifically documented and  
24 discussed at length during her 2015

1     annual performance review in which she  
2     fully acknowledged this deficiency and  
3     stated she would work to improve it.

4                     Do you see that?

5             A.     I see that.

6             Q.     I don't want to belabor the  
7     performance reviews, but we can go  
8     through the 2015 one, if you want.

9                     My question is just, do you  
10    recall being counseled about this during  
11    your 2015 performance review?

12            A.     I don't recall that, but if  
13    he states it here, then it happened, I  
14    guess.

15            Q.     This corrective action that  
16    Eric Cherveney has here, it's not a --  
17    based on what he's writing, it wasn't an  
18    isolated incident, correct?

19            A.     I think this -- the incident  
20    with Kevin precipitated this.

21            Q.     But the overall language he  
22    uses about being confrontational and/or  
23    argumentative, it appears that he  
24    believes this is an ongoing problem?

1 MS. MCCLURE: Objection to  
2 form.

3 THE WITNESS: Yes, that's  
4 what it appears to be.

5 BY MR. CLUFF:

6 Q. Do you know if Eric M. left  
7 the company because of the disagreements  
8 that you had with him?

9 A. No. He retired.

10 Q. You can set 7 aside. I'm  
11 done with that for now.

12 A. 7 aside?

13 Q. Yes. So let's go back to 6,  
14 which is the FY '16 performance  
15 evaluation.

16 MR. CLUFF: For people on  
17 the phone and down the way, it's,  
18 the Bates number ABDCMDL00364844.

19 BY MR. CLUFF:

20 Q. Down at the bottom of the  
21 page, Ms. Garcia, there's a heading that  
22 says, Business Objectives.

23 Do you see that?

24 A. I see that.

1           Q.     And there's some text under  
2     there that says, Accountability: I will  
3     lead and collaborate where necessary to  
4     accomplish tasks that will benefit team  
5     success.

6                     Is that something that you  
7     would have written, or is that an  
8     objective that was given to you?

9           A.     I believe I wrote that.

10          Q.     How did you identify that as  
11     one of your business objectives?

12          A.     These were pre-done for us.  
13     I think.

14                     MR. CLUFF: Hold on.

15                     -   -   -

16                     (Whereupon, a discussion off  
17     the record occurred.)

18                     -   -   -

19     BY MR. CLUFF:

20           Q.     Let's resume, Ms. Garcia.  
21     Sorry about that.

22                     Did you have a chance to  
23     familiarize yourself a little bit more  
24     with the document while we were listening

1 to the phone ringing?

2 A. Not really.

3 Q. I don't blame you, it was  
4 slightly distracting. I don't want to  
5 accuse Joe of distracting us, but it's on  
6 the record now.

7 Looking back at business  
8 objectives and the text after the word  
9 "accountability."

10 A. Yes.

11 Q. Do you see -- I asked you,  
12 is that something that you would have  
13 identified as a business objective, or  
14 was it identified for you as an  
15 objective?

16 A. I believe those were  
17 identified for us.

18 Q. And there's some text at the  
19 bottom of that page and on the top of the  
20 next page.

21 The text under the bold  
22 accountability line, is that stuff that  
23 you would have written?

24 A. Below that bold text, yes.

1           Q.     You identify, then, that the  
2     DCP/OMP team -- can you tell me what  
3     those letters stand for?

4           A.     The diversion control team,  
5     I think that's a typo. And then OMP is  
6     order monitoring program.

7           Q.     All right. So the diversion  
8     control team/order monitoring program  
9     team is a small unit that requires each  
10    person to, quote, pull their weight,  
11    closed quote, in order for necessary  
12    daily tasks to be completed.

13                   Does that sound right?

14          A.     Yes.

15          Q.     And then you said, These  
16    tasks include onboarding customers,  
17    monitoring orders, consumption reviews  
18    and communicating effectively with other  
19    departments.

20                   What did you mean by  
21    "onboarding customers"?

22          A.     Onboarding customers,  
23    performing due diligence investigations  
24    with the 590.



1 Q. Anything else involved in  
2 that?

3 A. No. Just verifying that  
4 information.

5 Q. What about monitoring  
6 orders, what were you doing there?

7 A. Monitoring orders of  
8 interest to see if they were potentially  
9 suspicious.

10 Q. How did you do that?

11 A. It would hit the algorithm,  
12 that's an order of interest. And then  
13 once a human being actually clicked on  
14 that order, then we would look at who the  
15 customer was, where they were located,  
16 what they were ordering.

17 Q. The next one is consumption  
18 reviews.

19 What's a consumption review?

20 A. A consumption review is  
21 where a customer appeals to have their  
22 thresholds adjusted.

23 Q. Was that previously called a  
24 threshold review at AmerisourceBergen?

1                   A.       Yes.

2                   Q.       So they are effectively the  
3       same term, correct?

4                   MS. MCCLURE:   Objection to  
5       form.

6                   THE WITNESS:   I don't know.

7       BY MR. CLUFF:

8                   Q.       What would you do when you  
9       received a consumption review?   What was  
10      the process for either granting or  
11      denying it?

12                  MS. MCCLURE:   Objection to  
13      form.   Compound.

14                  THE WITNESS:   Just seeing  
15      what the customer's needs were,  
16      what their justification was, what  
17      drug it was, and what they  
18      anticipated they needed.

19       BY MR. CLUFF:

20                  Q.       Okay.   Would you agree with  
21      me that when you were reviewing a  
22      consumption review, the goal was to  
23      always maintain an entity as an ABC  
24      customer?

1 MS. MCCLURE: Objection to  
2 form.

3 THE WITNESS: I don't think  
4 that was the top objective. We  
5 were just looking at the appeal.

6 BY MR. CLUFF:

7 Q. You note here that one of  
8 the things you'll continue to be  
9 accountable for, in relation to these job  
10 tasks, was playing an integral role in  
11 managing chain customers and strategic  
12 accounts in terms of due diligence  
13 information-gathering.

14 Do you see that?

15 A. Is that at the top of the  
16 next page?

17 Q. No. It's the top of the  
18 second page. It's one of the three  
19 bullet points.

20 A. Can you repeat, please?

21 Q. Sure.

22 You identify three things  
23 that you say you will be -- continue to  
24 be accountable for, the top line on the

1 second page.

2 And there are three bullet  
3 points. And one is, Play an integral  
4 role in managing chain customers and  
5 strategic accounts in terms of due  
6 diligence information-gathering.

7 Does that seem right?

8 A. Yes.

9 Q. So you were one of the  
10 people who was integral in managing  
11 AmerisourceBergen's relationship with its  
12 chain customers?

13 MS. MCCLURE: Objection to  
14 form.

15 THE WITNESS: I was one of  
16 those people, yes.

17 BY MR. CLUFF:

18 Q. So when we talk about chain  
19 customers, you're one of the best people  
20 to talk to at AmerisourceBergen about  
21 that topic, correct?

22 MS. MCCLURE: Objection to  
23 the form.

24 THE WITNESS: No. Only in

1 terms of due diligence.

2 BY MR. CLUFF:

3 Q. Okay. But how due diligence  
4 applied to chain customers, that was one  
5 of your areas of expertise?

6 MS. MCCLURE: Objection to  
7 form.

8 THE WITNESS: Just  
9 collecting the data.

10 BY MR. CLUFF:

11 Q. All right. I want to move  
12 down.

13 It looks here like there is  
14 a heading for manager evaluation and  
15 employee evaluation.

16 A. Yes.

17 Q. Do you see that?

18 A. Uh-huh.

19 Q. So I'm trying to understand  
20 the process.

21 We previously talked about,  
22 on the first page there was a business  
23 objective identified for you, correct?

24 A. Correct.

1 Q. And then you were given an  
2 opportunity to include some review of  
3 your own underneath that heading; is that  
4 right?

5 A. Yes.

6 Q. And then what are the  
7 employee evaluation and manager  
8 evaluation sections of this form?

9 A. Employee evaluation is me  
10 evaluating myself. And then manager is  
11 Eric, Eric's evaluation.

12 Q. I want to skip down to,  
13 Completing targeted pharmacy visits as  
14 assigned.

15 Do you see that bold  
16 heading?

17 A. Yes.

18 Q. So would this business  
19 objective have followed -- have followed  
20 a similar pattern, where you were  
21 provided an opportunity to include some  
22 comments, and then both you and Eric  
23 would have been able to include an  
24 evaluation?

1 A. Yes.

2 Q. Okay. Pharmacy visits were,  
3 historically during your time at  
4 AmerisourceBergen, one area of your job  
5 responsibilities, correct?

6 A. Correct.

7 Q. Would you say it was one of  
8 your strongest assets as an employee at  
9 AmerisourceBergen because of your  
10 background with the DEA?

11 A. Yes.

12 MS. MCCLURE: Objection to  
13 form.

14 BY MR. CLUFF:

15 Q. So despite the fact that  
16 they were one of your chief strengths,  
17 that area of your responsibility was  
18 significantly reduced, correct?

19 MS. MCCLURE: Objection to  
20 form.

21 THE WITNESS: That's  
22 correct.

23 BY MR. CLUFF:

24 Q. If you look on the next

1 page, it says that, Site visits serve not  
2 only an inspection-type purpose but are  
3 also an opportunity to gather  
4 intelligence about the pharmacy  
5 personnel, patients, business model,  
6 dispensing activities, geography, and in  
7 parenthesis you say, where the store is  
8 located, and peer comparisons within a  
9 certain mile radius.

10 So they were -- it appears  
11 that they were a very important part of  
12 your work as an investigator, correct?

13 MS. MCCLURE: Objection to  
14 form.

15 THE WITNESS: During this  
16 time period, it was reduced, but  
17 yes.

18 BY MR. CLUFF:

19 Q. So before the reduction, it  
20 was an important part of your job  
21 responsibilities?

22 MS. MCCLURE: Objection to  
23 form.

24 THE WITNESS: Yes.



1 BY MR. CLUFF:

2 Q. You continue, you say, The  
3 visits allow me to address any OMP  
4 issues, business needs and/or any other  
5 factors that may influence how ABC moves  
6 forward with that entity, i.e., reducing  
7 thresholds, cutting business ties, et  
8 cetera.

9 Do you see that?

10 A. I see that.

11 Q. So site visits were a way in  
12 which you, as an investigator, determined  
13 how to address thresholds and whether to  
14 cut business ties, correct?

15 A. Correct.

16 Q. But in 2016, those visits  
17 were significantly reduced, correct?

18 MS. MCCLURE: Objection to  
19 form.

20 THE WITNESS: We hired an  
21 outside consultant, so those  
22 visits continued.

23 BY MR. CLUFF:

24 Q. But you -- your

1 responsibility for them was significantly  
2 reduced, right?

3 A. Correct.

4 Q. You continue and you say  
5 that, in your opinion, this is the most  
6 effective way to actually know our  
7 customers, especially the high-risk ones,  
8 in terms of validating or disproving that  
9 we are seeing -- excuse me -- what we are  
10 seeing in prior generated data for  
11 high-risk controls.

12 Do you see that?

13 A. I see that.

14 Q. And, again, your  
15 responsibility for this had been  
16 significantly reduced, correct?

17 MS. MCCLURE: Objection to  
18 form.

19 THE WITNESS: Reduced, but  
20 passed on to the outside  
21 consultant.

22 BY MR. CLUFF:

23 Q. Again, your responsibilities  
24 for this were significantly reduced?

1 MS. MCCLURE: Same  
2 objection.

3 THE WITNESS: Yes.

4 BY MR. CLUFF:

5 Q. Okay. You continue, you  
6 say, I am not afraid to have  
7 uncomfortable discussions in person with  
8 pharmacy personnel in order for both the  
9 pharmacy and ABC to continue in  
10 partnership.

11 Correct?

12 A. That's what it states,  
13 correct.

14 Q. We previously discussed, I  
15 believe, it was in Exhibit-4, that all of  
16 AmerisourceBergen's customers are valued  
17 customers, correct?

18 MS. MCCLURE: Objection to  
19 form.

20 THE WITNESS: Potentially  
21 correct.

22 BY MR. CLUFF:

23 Q. Okay. Well, what is  
24 potentially correct about that statement?

1           A.       I mean, until we do due  
2 diligence and all of the background  
3 investigation, we don't know if they're  
4 valuable or not.

5           Q.       Here you say, to continue in  
6 partnership.

7                   Did you consider your  
8 customers to be business partners?

9           MS. MCCLURE: Objection to  
10 form.

11           THE WITNESS: We were  
12 providing a service that they  
13 needed.

14 BY MR. CLUFF:

15           Q.       But here you use the  
16 words -- you use the word "partnership."

17                   So it was a business  
18 partnership, correct?

19           MS. MCCLURE: Objection to  
20 form.

21           THE WITNESS: I don't know.

22 BY MR. CLUFF:

23           Q.       But you wrote those words?

24           A.       I mean, I stated that here.

1 But I don't know exactly what I meant.

2 Q. You continue and say, If it  
3 is necessary, these discussions could  
4 lead to ABC action to terminate the  
5 account, depending on what the visit  
6 yields.

7 Do you recall visits that  
8 led to ABC terminating an account?

9 MS. MCCLURE: Objection to  
10 form.

11 THE WITNESS: Yes.

12 BY MR. CLUFF:

13 Q. Do you ever recall instances  
14 where you and Eric Cherveney or Ed  
15 Hazewski disagreed on whether to  
16 terminate an account?

17 A. I don't recall.

18 Q. What accounts do you recall  
19 terminating?

20 MS. MCCLURE: Objection to  
21 form.

22 THE WITNESS: An account out  
23 in Las Vegas.

24 BY MR. CLUFF:

1           Q.     Why did you terminate that  
2     account?

3           A.     Joe and I visited that  
4     location, and their records didn't match  
5     up with what we had.

6           Q.     What was the name of that  
7     location?

8           A.     I don't remember.

9           Q.     Do you recall if that  
10    location was subject to a DEA raid?

11          A.     I don't recall.

12          Q.     Where would I look in  
13    AmerisourceBergen's files to determine  
14    when that specific location was cut off  
15    by AmerisourceBergen?

16          A.     In their file.

17          Q.     Would it be on a do-not-ship  
18    list?

19                   MS. MCCLURE:  Objection to  
20                   form.

21                   THE WITNESS:  Possibly.

22    BY MR. CLUFF:

23          Q.     If it were cut off by a DEA  
24    raid, would that be reflected in their

1 file?

2 MS. MCCLURE: Objection to  
3 form.

4 THE WITNESS: It could be.

5 BY MR. CLUFF:

6 Q. Do you recall any other  
7 instances where you made a decision to  
8 terminate an account?

9 A. I don't recall.

10 Q. So in your five years, you  
11 recall one instance where you, as an  
12 investigator, recommended the termination  
13 of an account?

14 MS. MCCLURE: Objection to  
15 form.

16 THE WITNESS: That's all I  
17 recall right now.

18 BY MR. CLUFF:

19 Q. I want to continue with the  
20 rest of that sentence after the  
21 semicolon, but I want to read it in its  
22 entirety, so we can give it context and  
23 I'm not accused of misrepresenting the  
24 document.

1                   It says, If it is necessary,  
2   these discussions could lead to ABC  
3   action to terminate the account depending  
4   on what the visit yields; however, the  
5   goal is always to maintain the entity as  
6   an ABC customer.

7                   Do you see that?

8           A.     I see that.

9           Q.     So you worked at  
10   AmerisourceBergen for five years,  
11   correct?

12          A.     Correct.

13          Q.     And you were always a  
14   diversion investigator at the time,  
15   right, during those five years?

16          A.     I was an investigator, yes.

17          Q.     And part of -- pharmacy  
18   investigations, that was your job, right?

19                   MS. MCCLURE:  Objection to  
20   form.

21                   THE WITNESS:  That was me  
22   and Joe and Kevin's job.

23   BY MR. CLUFF:

24          Q.     And it was something that



1     you took pride in, you thought you were  
2     really good at, correct?

3             A.     Correct.

4             Q.     And you identified it as one  
5     of the most effective ways to actually  
6     know your customers, right?

7             A.     Correct.

8             Q.     Especially the high-risk  
9     customers, in terms of validating or  
10    disproving, essentially, their  
11    relationship with AmerisourceBergen?

12            MS. MCCLURE:  Objection to  
13            form.

14            THE WITNESS:  Validating or  
15            disproving whether they were a  
16            good customer to do business with.

17    BY MR. CLUFF:

18            Q.     But then here at the end of  
19     the sentence that you wrote, you say, The  
20     goal is always to maintain the entity as  
21     an ABC customer; is that correct?

22            A.     That's in good faith, yes.

23            Q.     Where is the word "good  
24     faith" in that sentence?

1 MS. MCCLURE: Objection to  
2 form.

3 THE WITNESS: I just added  
4 that now.

5 BY MR. CLUFF:

6 Q. So it's not in the document,  
7 correct?

8 A. No.

9 Q. All right. When you worked  
10 at AmerisourceBergen in your five years  
11 as a diversion investigator, was this a  
12 policy that was communicated to you by  
13 your superiors?

14 MS. MCCLURE: Objection to  
15 form.

16 THE WITNESS: Was what a  
17 policy?

18 BY MR. CLUFF:

19 Q. That the goal is always to  
20 maintain the entity as an ABC customer?

21 A. No. That's just me adding  
22 that.

23 Q. So you were operating in  
24 isolation when you said the goal is to

1 always maintain the entity as an ABC  
2 customer?

3 MS. MCCLURE: Objection to  
4 form.

5 THE WITNESS: That was my  
6 positive spin on it.

7 BY MR. CLUFF:

8 Q. Did you ever have  
9 discussions with other investigators  
10 about the principle that the goal is to  
11 always maintain the entity as an ABC  
12 customer?

13 A. I don't recall.

14 Q. Do you recall  
15 AmerisourceBergen ever making exceptions  
16 to the rules for any of its valued  
17 business partners?

18 MS. MCCLURE: Objection to  
19 form.

20 THE WITNESS: I don't  
21 recall.

22 BY MR. CLUFF:

23 Q. Okay. Do you recall ever  
24 communicating thresholds to

1 AmerisourceBergen customers?

2 MS. MCCLURE: Objection to  
3 form.

4 THE WITNESS: Whether it was  
5 approved or not, but not the  
6 threshold amount or not the  
7 thresholds itself.

8 BY MR. CLUFF:

9 Q. I'm sorry, I'm not trying to  
10 pick a fight with you. I don't really  
11 understand your answer, so I'm going to  
12 ask it again, and maybe we can clear it  
13 up.

14 Do you recall ever  
15 communicating thresholds to  
16 AmerisourceBergen customers?

17 MS. MCCLURE: Objection.  
18 Asked and answered.

19 THE WITNESS: No.

20 BY MR. CLUFF:

21 Q. Do you know if  
22 AmerisourceBergen was authorized to  
23 communicate thresholds to customers?

24 MS. MCCLURE: Objection to

1 form.

2 THE WITNESS: No.

3 BY MR. CLUFF:

4 Q. If AmerisourceBergen  
5 communicated a customer -- a threshold to  
6 one of its customers, that would have  
7 essentially circumvented the suspicious  
8 order monitoring program, right?

9 MS. MCCLURE: Objection to  
10 form.

11 THE WITNESS: Correct.

12 BY MR. CLUFF:

13 Q. Do you ever recall telling  
14 customers when they exceeded their  
15 thresholds?

16 MS. MCCLURE: Objection to  
17 form.

18 THE WITNESS: I don't  
19 recall.

20 BY MR. CLUFF:

21 Q. If AmerisourceBergen had  
22 communicated to a customer when they were  
23 exceeding thresholds, would that  
24 circumvent the suspicious order

1 monitoring program?

2 MS. MCCLURE: Objection to  
3 form. Speculative.

4 THE WITNESS: Yeah, I don't  
5 want to speculate on that. I  
6 don't know.

7 BY MR. CLUFF:

8 Q. Sure. I'd like to hand you  
9 a copy of a document, then. This is  
10 ABDCMDL00141902.

11 - - -  
12 (Whereupon,  
13 AmerisourceBergen-Garcia  
14 Exhibit-8, ABDCMDL00141902-903,  
15 was marked for identification.)

16 - - -

17 BY MR. CLUFF:

18 Q. I'll give you a copy of  
19 that.

20 I think -- can you tell me,  
21 Liz, at the bottom it says, 8?

22 A. Yes.

23 Q. Is that correct?

24 Okay. Thank you. It's a

1 two-page e-mail. Please go ahead and  
2 familiarize yourself with it.

3 I'm going to be just asking  
4 you about the e-mail that's at the bottom  
5 of the first page. So I don't know if  
6 you want to start there and then we can  
7 work our way through it.

8 A. Okay. Hold on.

9 Okay.

10 Q. Okay. So let's just lay the  
11 foundation for this e-mail here.

12 Do you see at the top of the  
13 first page, it says, From Eric Cherveney  
14 to Matthew McElfresh. On the copy line  
15 are David May and Elizabeth Garcia.

16 Do you see that?

17 A. I see that.

18 Q. And the subject matter is,  
19 OMP reporting?

20 A. I see that.

21 Q. And if you look down at the  
22 e-mail on the bottom of the page, it says  
23 from Elizabeth Garcia to Matthew  
24 McElfresh, Eric Cherveney and David May.

1 Do you see that?

2 A. I see that.

3 Q. Have you had a chance to  
4 review this e-mail?

5 A. Yes.

6 Q. I want to look at, actually,  
7 the first e-mail on the chain, which is  
8 on the second page at the bottom there.

9 It starts from Matthew  
10 McElfresh, and it's to you and Eric  
11 Cherveney.

12 Do you see that?

13 A. I see that.

14 Q. He says, Liz/ -- Eric, and  
15 the question is -- Are we currently  
16 providing any reporting to Walmart  
17 regarding Sam's Club's OMP thresholds  
18 being met?

19 First of all, what's Sam's  
20 Club?

21 That's a question. What's  
22 Sam's Club?

23 A. Sam's Club --

24 MR. BRODSKY: Objection.



1 BY MR. CLUFF:

2 Q. What's Sam's Club?

3 A. Sam's Club is a part of  
4 Walmart, and some of them may have a  
5 pharmacy entity within them.

6 Q. When you say "part of  
7 Walmart," what do you mean?

8 A. Walmart, I believe, owns  
9 Sam's Clubs.

10 Q. Is Walmart one of your chain  
11 customers, AmerisourceBergen's chain  
12 customers?

13 A. Walmart was not, but Sam's  
14 Club was.

15 Q. Why would you have been  
16 reporting Sam's Club OMP thresholds to  
17 Walmart?

18 MS. MCCLURE: Objection to  
19 form.

20 THE WITNESS: We didn't  
21 report Sam's Club's numbers to  
22 Walmart.

23 BY MR. CLUFF:

24 Q. The next question is, Do we

1 provide any sort of reporting like that  
2 for customers, or does the DEA view that  
3 as colluding?

4 Do you know what Matthew  
5 McElfresh is talking about there?

6 MS. MCCLURE: Objection to  
7 form.

8 MR. BRODSKY: Objection.

9 THE WITNESS: I don't know  
10 what Matt is talking about there.

11 BY MR. CLUFF:

12 Q. Do you have -- having  
13 reviewed the document and having worked  
14 at AmerisourceBergen, do you have a  
15 general understanding of why he would be  
16 asking if the DEA would view this  
17 practice as colluding?

18 MS. MCCLURE: Objection to  
19 form.

20 MR. BRODSKY: Objection.

21 THE WITNESS: I don't know  
22 why he would say that.

23 BY MR. CLUFF:

24 Q. So he next explains that,

1 Sam's is asking if we can notify someone  
2 when Sam's accounts are hitting or  
3 exceeding their thresholds.

4 Do you see that?

5 A. I see that.

6 Q. And do you recall responding  
7 to this e-mail?

8 A. I don't recall, but here it  
9 is.

10 Q. So it looks like the e-mail  
11 at the bottom of the page there, that's  
12 from you to Matthew McElfresh, that's  
13 your response?

14 A. Yes.

15 Q. Okay. Sitting here today,  
16 you don't recall writing that?

17 A. I do not.

18 Q. That was in August 2017,  
19 correct?

20 A. Correct.

21 Q. But looking at it, do you --  
22 looking at this e-mail, do you believe  
23 this is a true and correct copy of  
24 something that was written and reviewed

1 by you at the time?

2 MS. MCCLURE: Objection to  
3 form.

4 THE WITNESS: Yes.

5 BY MR. CLUFF:

6 Q. Okay. So I want to look at  
7 the text of your e-mail.

8 You start off by saying, Hi  
9 Matt.

10 Do you see that?

11 A. I see that.

12 Q. And you write, We do not  
13 report to any customer what their limits  
14 are or whether they are exceeding those  
15 limits or not, as it is against our  
16 policy to do so.

17 Do you see that?

18 A. I see that.

19 Q. Okay. So reporting to a  
20 customer about what their limits are or  
21 whether they exceeded those limits, the  
22 word "limits" in that sentence, does that  
23 refer to thresholds?

24 MS. MCCLURE: Objection to

1 form.

2 THE WITNESS: Correct.

3 BY MR. CLUFF:

4 Q. Do you recall any exceptions  
5 to this statement, where  
6 AmerisourceBergen told somebody what  
7 their limits were or whether they  
8 exceeded those limits?

9 MS. MCCLURE: Objection to  
10 form.

11 MR. BRODSKY: Same  
12 objection.

13 THE WITNESS: No.

14 BY MR. CLUFF:

15 Q. Okay. You continue and you  
16 say, In addition, that would be  
17 circumventing our own suspicious order  
18 monitoring program; therefore, all  
19 threshold limits are not disclosed.

20 Do you see that?

21 A. I see that.

22 Q. Do you have any knowledge of  
23 instances where AmerisourceBergen  
24 informed people about thresholds or

1 disclosed thresholds?

2 MS. MCCLURE: Objection to  
3 form.

4 THE WITNESS: No.

5 MR. BRODSKY: Same  
6 objection.

7 BY MR. CLUFF:

8 Q. Just looking at that  
9 paragraph, I get that there's two  
10 sentences, and so I don't want to overly  
11 complicate this, though.

12 But looking at the first  
13 sentences -- it looks like there are two  
14 kinds of information we're talking about  
15 here. The first is what a customer's  
16 limit is.

17 Does that make sense?

18 MS. MCCLURE: Objection to  
19 form.

20 THE WITNESS: Correct.

21 BY MR. CLUFF:

22 Q. And there's -- a second  
23 piece of information is when they exceed  
24 those limits?

1           A.       That's what is written here.

2           Q.       And the reason you don't do  
3       that is, as I understand it, it looks  
4       like it's twofold. First, it's against  
5       policy.

6                       Does that make sense?

7           A.       It makes sense.

8           Q.       And, second, because it  
9       would circumvent the suspicious order  
10      monitoring program?

11          A.       Correct.

12                    MS. MCCLURE: Objection to  
13      form.

14   BY MR. CLUFF:

15          Q.       Okay. All right. Go ahead  
16      and set Exhibit-8 aside for me.

17                    I'm going to hand you a copy  
18      of a document that's been produced,  
19      ABDCMDL00306522.

20                               -   -   -

21                    (Whereupon,  
22                    AmerisourceBergen-Garcia  
23                    Exhibit-9, ABDCMDL00306522-525,  
24                    was marked for identification.)





1 A. Yes.

2 Q. Do you recall, during your  
3 time at AmerisourceBergen, that  
4 AmerisourceBergen shared weekly OMP  
5 statistics with Walgreens?

6 A. Yes.

7 Q. What are OMP statistics?

8 A. Purchases and which  
9 customers, which stores, might have hit  
10 the OMP.

11 Q. When you say "might have,"  
12 did you tell Walgreens, like, hey, this  
13 store might have hit their threshold or  
14 that they actually hit?

15 MS. MCCLURE: Objection to  
16 form.

17 THE WITNESS: They hit OMP.

18 BY MR. CLUFF:

19 Q. So the weekly OMP  
20 statistics, as I understand it from what  
21 you just told me, was a report that  
22 AmerisourceBergen gave to Walgreens about  
23 which stores hit or exceeded their OMP  
24 parameters, correct?

1           A.       Which orders hit OMP, yes.

2           Q.       Was there any other data  
3       included in those statistics that you  
4       provided to Walgreens?

5           A.       I don't recall.

6           Q.       I had you set aside -- no,  
7       never mind.

8                    So continuing with what we  
9       marked as Exhibit-9, if you look at the  
10      very last page, there's an e-mail that  
11      starts from Lino Guerreiro. It goes to  
12      Natasha Polster, Eric Stahmann, Patricia  
13      Daugherty, Christopher Dymon, Edward  
14      Bratton, Nick Leners.

15                   Those are all in the "to"  
16      line; is that correct?

17          A.       Yes.

18          Q.       Are those all Walgreens  
19      employees?

20          A.       Yes.

21          Q.       So that seems to be accurate  
22      with your recollection about providing  
23      this data to Walgreens, correct?

24          A.       Correct.

1           Q.       Was Walgreens one of  
2   AmerisourceBergen's trusted business  
3   partners?

4                   MS. MCCLURE:   Objection to  
5                   form.

6                   THE WITNESS:   Yes.

7   BY MR. CLUFF:

8           Q.       The date of this e-mail is  
9   November 21, 2014, correct?

10          A.       That's correct.

11          Q.       That's a little over a year  
12   after AmerisourceBergen -- I mean,  
13   Walgreens paid the \$80-million penalty we  
14   talked about?

15          A.       Correct.

16          Q.       If you go up the chain here,  
17   Sharon has some concerns. She says, It  
18   will be interesting to see how this  
19   report's action column changes from  
20   reject to approved next week, due to  
21   changes in process.

22                   Do you see that?

23          A.       I do not. Where is it?

24          Q.       I'm sorry, it's the middle

1 e-mail on the second-to-last page, the  
2 one that ends in 6524.

3 A. Okay.

4 Q. It's on the screen in front  
5 of you, too, just so you can see it.

6 A. Okay.

7 Q. Do you recall why Sharon  
8 thought it would be interesting to see  
9 how the report column changes?

10 MS. MCCLURE: Objection to  
11 form.

12 THE WITNESS: I don't know  
13 what she's talking about.

14 BY MR. CLUFF:

15 Q. And then the next e-mail up,  
16 the top of the same page, is from  
17 Kimberly St. John.

18 Do you know who that is?

19 A. She was our coordinator at  
20 one point.

21 Q. Was she also Chris  
22 Zimmerman's executive assistant?

23 A. She moved into that position  
24 later.

1           Q.     She writes, Walgreens'  
2     orders from this morning were mostly way  
3     over threshold or duplicates.

4                     She continues, I'm not sure  
5     how much that column will change, to be  
6     honest.

7                     Based on your experience as  
8     a person who conducted due diligence for  
9     chain pharmacies, do you have any  
10    understanding as to why she did not  
11    believe changes would be occurring?

12                    MS. MCCLURE:   Object to the  
13                    form.

14                    THE WITNESS:   I have no  
15                    idea.

16    BY MR. CLUFF:

17           Q.     Do you have any recollection  
18    about Walgreens' orders being way over  
19    the threshold?

20           A.     No.

21           Q.     Would it concern you that a  
22    large chain pharmacy like Walgreens had  
23    most of its orders be way over threshold?

24                    MS. MCCLURE:   Objection to

1 form. Misstates the document.

2 THE WITNESS: No. Because  
3 I'd need to look at it and see  
4 what the issue was.

5 BY MR. CLUFF:

6 Q. Is that another instance  
7 where AmerisourceBergen would be  
8 operating to protect its valued  
9 customers?

10 MS. MCCLURE: Objection to  
11 form.

12 THE WITNESS: No.

13 BY MR. CLUFF:

14 Q. Would that be another  
15 instance where AmerisourceBergen was  
16 resolving issues in favor of keeping a  
17 customer?

18 MS. MCCLURE: Objection to  
19 form.

20 THE WITNESS: No.

21 BY MR. CLUFF:

22 Q. But those orders were way  
23 over threshold, according to Kimberly St.  
24 John?

1 MS. MCCLURE: Objection to  
2 form.

3 THE WITNESS: It was just  
4 pure investigation.

5 BY MR. CLUFF:

6 Q. I'm sorry? What was just  
7 pure investigation?

8 A. It's just looking at that  
9 isolated order to see what the  
10 circumstances were.

11 Q. Let me back up and  
12 understand something here.

13 Kimberly St. John says,  
14 Walgreens' orders from this morning were  
15 mostly way over threshold or duplicates.

16 And then you just explained  
17 to me that something is just looking at  
18 the isolated orders to see what the  
19 circumstances were.

20 Could you explain that to  
21 me?

22 A. When we look at that order,  
23 we're trying to determine what the  
24 circumstances were, why that order hit

1 OMP.

2 Q. But as an objective fact,  
3 Kimberly St. John states that Walgreens'  
4 orders from this morning were mostly way  
5 over threshold or duplicates, correct?

6 MS. MCCLURE: Objection to  
7 form.

8 THE WITNESS: But I don't  
9 know the context that she's  
10 talking about.

11 BY MR. CLUFF:

12 Q. Do you understand the  
13 context of an order exceeding threshold?

14 MS. MCCLURE: Objection to  
15 form.

16 THE WITNESS: Reclarify.

17 BY MR. CLUFF:

18 Q. Sure.

19 Does AmerisourceBergen use  
20 thresholds to identify orders of  
21 interest?

22 MS. MCCLURE: Objection to  
23 form. When?

24 THE WITNESS: If it hits the



1 algorithm.

2 BY MR. CLUFF:

3 Q. Is the algorithm including a  
4 threshold?

5 MS. MCCLURE: Objection to  
6 form.

7 THE WITNESS: Yes.

8 BY MR. CLUFF:

9 Q. And so what happens when an  
10 order exceeds threshold?

11 A. It hits the algorithm and  
12 it's an order of interest, and then we go  
13 in and look at it.

14 Q. So you asked me what the  
15 context was about exceeding threshold.

16 And I will tell you that  
17 when I say "exceeding threshold," I  
18 describe that process that you just  
19 communicated to me.

20 And let's go back to  
21 Kimberly St. John's e-mail. And she  
22 says, Walgreens' orders from this morning  
23 were mostly way over threshold or  
24 duplicates.

1 Do you see that?

2 A. I see that.

3 Q. So based on what you just  
4 testified to me, is it your understanding  
5 that, here, the orders would have  
6 exceeded the threshold algorithm that you  
7 just described?

8 MS. MCCLURE: Objection to  
9 form.

10 THE WITNESS: I assume  
11 that's what she's talking about.

12 BY MR. CLUFF:

13 Q. And my follow-up question  
14 is, is that a situation in which  
15 AmerisourceBergen would have made  
16 decisions to protect their business  
17 partners?

18 MS. MCCLURE: Objection to  
19 form.

20 THE WITNESS: I don't  
21 understand the question.

22 BY MR. CLUFF:

23 Q. I previously asked you if  
24 Walgreens is a trusted business partner

1 for AmerisourceBergen.

2 Do you recall that?

3 A. Yes.

4 Q. Right. And would you agree  
5 with me that they are?

6 A. Yes.

7 Q. We previously looked at the  
8 e-mail that you wrote to Greg Madsen  
9 about Costco, and you instructed him that  
10 when you're looking at 590 due diligence,  
11 you're always trying to protect your  
12 valued customers.

13 Do you remember that?

14 MS. MCCLURE: Objection to  
15 form.

16 THE WITNESS: Yes.

17 BY MR. CLUFF:

18 Q. So you told me that when an  
19 order exceeds threshold, as Kimberly St.  
20 John describes in this e-mail, it goes  
21 into a due diligence investigation; is  
22 that correct?

23 MS. MCCLURE: Objection to  
24 form.

1 THE WITNESS: We look at  
2 those orders, yes.

3 BY MR. CLUFF:

4 Q. And my question is, when  
5 you're looking at those orders, is  
6 AmerisourceBergen trying to protect its  
7 customers; yes or no?

8 MS. MCCLURE: Objection to  
9 form. And you don't have to  
10 answer yes or no.

11 THE WITNESS: I don't want  
12 to speculate on that.

13 BY MR. CLUFF:

14 Q. I didn't ask you to  
15 speculate.

16 Let's back up. We'll lay  
17 some foundation for this so you can kind  
18 of see where I'm going.

19 You were a diversion  
20 investigator for five years at  
21 AmerisourceBergen, correct?

22 A. Correct.

23 Q. Part of your job  
24 responsibilities were to investigate

1 orders that exceeded threshold?

2 A. Correct.

3 Q. I believe you referred to  
4 those as orders of interest.

5 Does that make sense?

6 A. Orders of interest, yes.

7 Q. Okay. These orders here  
8 that Kimberly St. John talks about that  
9 exceed threshold, would you qualify those  
10 as orders of interest?

11 A. They hit the algorithm, yes.

12 Q. And so they needed to be  
13 investigated, correct?

14 A. Correct.

15 Q. All right. I'm just asking  
16 you, in your process, as a diversion  
17 investigator that investigated orders of  
18 interest that exceeded threshold, like  
19 these identified here by Walgreens,  
20 whether you investigated those in a way  
21 that protected your customer's interests?

22 MS. MCCLURE: Objection to  
23 form.

24 THE WITNESS: No. It's just

1 an isolated order that hit the  
2 algorithm that we're looking at.  
3 That doesn't mean we told them  
4 what their threshold amounts were,  
5 or anything else.

6 BY MR. CLUFF:

7 Q. I'm just asking, when you  
8 were investigating these orders, did you  
9 do so in a way to protect your customers?

10 MS. MCCLURE: Objection to  
11 form. Asked and answered.

12 THE WITNESS: No. It's just  
13 an action that they did to  
14 replenish their inventories.

15 BY MR. CLUFF:

16 Q. Okay. When we looked  
17 through Exhibit-7, I believe, we talked  
18 about that decisions were made always in  
19 order to keep a customer as an  
20 AmerisourceBergen customer.

21 Do you recall that?

22 MS. MCCLURE: Objection to  
23 form. Mischaracterizes the  
24 document. Misstates the witness's

1 prior testimony.

2 THE WITNESS: That's what I  
3 stated.

4 BY MR. CLUFF:

5 Q. Okay. When you, as an  
6 investigator, reviewed orders like this  
7 that exceeded threshold, did you do so in  
8 a way to maintain ABC customers?

9 MS. MCCLURE: Objection to  
10 form.

11 THE WITNESS: It wasn't to  
12 protect them. It was to look at  
13 the order, regardless.

14 MS. MCCLURE: Can we take a  
15 break in a moment?

16 MR. CLUFF: We'll break when  
17 I'm ready to break, unless Liz  
18 needs a break.

19 THE WITNESS: I'll take a  
20 break.

21 MR. CLUFF: Let's take a  
22 break.

23 VIDEO TECHNICIAN: Off the  
24 record at 2:31 p.m.

1

— — —

2                   (Whereupon, a brief recess  
3           was taken.)

4

5 VIDEO TECHNICIAN: We're  
6 back on the record at 2:49 p.m.

7 BY MR. CLUFF:

8 Q. Ms. Garcia, we recently took  
9 a break. We're back on the record now.  
10 So you understand that you're still under  
11 oath?

12                      A.        Yes.

13 Q. Okay. So let's go back to  
14 Exhibit-9, the one we were just talking  
15 about. That's the e-mail with the  
16 subject line, Weekly OMP statistics.

17 Do you see that?

18                   A.     I see that.

19 Q. And we were on the third  
20 page, and we were looking at Kimberly St.  
21 John's e-mail at the top there.

22 Do you see that?

23                   A.     I see that.

24 Q. I want to flip to the front



1 one more page, which ends in 6523. At  
2 the top there, there's an e-mail that you  
3 write.

4 Do you see it?

5 A. I see that.

6 Q. Okay. And if you recall  
7 from the discussion prior to your e-mail,  
8 I'm going to paraphrase, but the  
9 discussion was, orders from Walgreens  
10 that were exceeding thresholds.

11 Do you think that is a fair  
12 summary?

13 A. Yes.

14 Q. Okay. Do you recall that --  
15 or what do you recall about Walgreens'  
16 ordering patterns while you were an  
17 employee of AmerisourceBergen?

18 MS. MCCLURE: Objection to  
19 form.

20 THE WITNESS: They ebbed and  
21 flowed.

22 BY MR. CLUFF:

23 Q. Do you have any recollection  
24 about them, you know, having a pattern of

1 exceeding their thresholds?

2 MS. MCCLURE: Objection to  
3 form.

4 THE WITNESS: I don't  
5 recall.

6 BY MR. CLUFF:

7 Q. Do you feel like you  
8 personally, as an employee of  
9 AmerisourceBergen, had a close working  
10 relationship with Walgreens?

11 MS. MCCLURE: Objection to  
12 form.

13 THE WITNESS: I had a good  
14 relationship with Walgreens, yes.

15 BY MR. CLUFF:

16 Q. What do you mean when you  
17 say you had a "good" working relationship  
18 with Walgreens?

19 MS. MCCLURE: Objection to  
20 form.

21 THE WITNESS: I communicated  
22 with the WAG integrity team, who  
23 are my counterparts at Walgreens.

24 BY MR. CLUFF:

1           Q.     So when you say they were  
2     "your counterparts," could you describe  
3     what that means?

4           A.     They were investigators  
5     also.

6           Q.     And what were they  
7     investigating?

8           A.     They monitored their own  
9     accounts.

10          Q.     Was there a special or  
11     unique relationship between the diversion  
12     control team and the WAG team?

13                 MS. MCCLURE:  Objection to  
14     form.

15                 THE WITNESS:  We were  
16     counterparts for our respective  
17     businesses.

18     BY MR. CLUFF:

19          Q.     Was there any communication  
20     between the diversion control team and  
21     the WAG integrity team if a Walgreens'  
22     order exceeded thresholds?

23                 MS. MCCLURE:  Objection to  
24     form.

1 THE WITNESS: If we saw  
2 something unusual, we would call  
3 it to their attention.

4 BY MR. CLUFF:

5 Q. What happened after you  
6 called it to their attention?

7 MS. MCCLURE: Objection to  
8 form.

9 THE WITNESS: I don't know  
10 what they did.

11 BY MR. CLUFF:

12 Q. Would AmerisourceBergen ever  
13 take action on an order that exceeded  
14 threshold without talking to the WAG  
15 integrity team?

16 MS. MCCLURE: Objection to  
17 form.

18 THE WITNESS: Generally, no.

19 BY MR. CLUFF:

20 Q. I've been saying WAG  
21 integrity team.

22 I'm using the abbreviation,  
23 W-A-G, do you know that to mean  
24 Walgreens?

1 A. Yes.

2 Q. I'll clear that up in the  
3 future. I just wanted to be on the same  
4 page.

5 So you said that, generally,  
6 no, Amerisource didn't take action on  
7 orders that exceeded threshold without  
8 talking to Walgreens, right?

9 A. Correct.

10 Q. So what happened after, in  
11 your experience, AmerisourceBergen  
12 communicated to Walgreens about an order  
13 that exceeded threshold?

14 MS. MCCLURE: Objection to  
15 form.

16 THE WITNESS: I don't know  
17 what action they took on their  
18 end.

19 BY MR. CLUFF:

20 Q. Did you receive any  
21 communications back from the Walgreens  
22 integrity team at that point?

23 MS. MCCLURE: Objection to  
24 form.

1                   THE WITNESS:   Either at that  
2                   point or in the future, once they  
3                   resolved the issue.

4   BY MR. CLUFF:

5                   Q.     What do you mean by  
6                   "resolved the issue"?

7                   A.     Whether that is a legitimate  
8                   need for their patients or not, that  
9                   order.

10                  Q.     And what would happen if  
11                  Walgreens determined that an order was  
12                  not for the legitimate needs of a  
13                  patient --

14                         MS. MCCLURE:   Objection to  
15                         form.

16   BY MR. CLUFF:

17                   Q.     -- at AmerisourceBergen;  
18                   would the order be cancelled?

19                   A.     They would indicate, please  
20                   cancel.

21                   Q.     At that point, would you  
22                   cancel the order?

23                         MS. MCCLURE:   Objection to  
24                         form.

1 THE WITNESS: Yes.

2 BY MR. CLUFF:

3 Q. And when I say "you," I mean  
4 AmerisourceBergen.

5 After you cancelled the  
6 order, would you report that to the DEA?

7 MS. MCCLURE: Objection to  
8 form.

9 THE WITNESS: Yes. Unless  
10 it was human error or something  
11 like that.

12 BY MR. CLUFF:

13 Q. I want to look now again  
14 back to Exhibit-9.

15 The second page, your e-mail  
16 in the top part of the page is the one  
17 dated November 21, 2014.

18 You say, I agree that action  
19 needs to be taken on Walgreens -- which  
20 is abbreviated, WAG's -- part to make  
21 sure that -- ensure they do not order  
22 large amounts over threshold.

23 Do you see that?

24 A. I see that.

1           Q.     In 2014, reading this  
2     sentence, do you have a recollection that  
3     Walgreens was ordering over threshold by  
4     large amounts?

5                     MS. MCCLURE:   Objection to  
6     form.

7                     THE WITNESS:   I don't  
8     recall.

9     BY MR. CLUFF:

10           Q.     But that's what you wrote,  
11     correct?

12                     MS. MCCLURE:   Objection to  
13     form.

14                     THE WITNESS:   That's what I  
15     wrote.

16     BY MR. CLUFF:

17           Q.     You say here that you agreed  
18     with Kim that there won't be much change  
19     on Walgreens' part.

20                     Do you see that?

21           A.     I see that.

22           Q.     Do you have a recollection  
23     today of why you believed that Walgreens  
24     would not change their ordering patterns?



1                   A.       I don't know the context,  
2   no.

3                   Q.       You've read this e-mail,  
4   right?

5                   A.       I have.

6                   Q.       You had an opportunity to  
7   review it?

8                   A.       Let me look at what I wrote.  
9                   Okay.

10                  Q.       You say -- you agree with  
11   Kim that there won't be much change in  
12   Walgreens' ordering patterns.

13                            Do you recall what that  
14   conclusion was based on?

15                           MS. MCCLURE:  Objection to  
16   form.  Asked and answered.

17                           THE WITNESS:  I don't  
18   recall.

19   BY MR. CLUFF:

20                  Q.       In the next sentence you  
21   say, Their solution -- I'm assuming that  
22   means Walgreens, right?

23                  A.       Correct.

24                  Q.       So Walgreens' solution will

1 be to raise the threshold, which means  
2 I'll continue to receive many reviews on  
3 a daily basis.

4 Reading that sentence, is it  
5 your recollection that you were receiving  
6 many reviews on a daily basis from  
7 Walgreens that were over threshold?

8 A. They were appealing their  
9 threshold amounts.

10 Q. So they were appealing their  
11 threshold amounts on a daily basis?

12 MS. MCCLURE: Objection to  
13 form.

14 THE WITNESS: Because we  
15 were -- we were trying to sync our  
16 system with theirs, and there was  
17 a glitch that didn't allow that to  
18 happen. So they would appeal the  
19 threshold amounts.

20 BY MR. CLUFF:

21 Q. When we looked at your  
22 LinkedIn profile and you described the  
23 work you've done at AmerisourceBergen and  
24 DEA, I believe you described yourself as

1     having a thorough knowledge of the  
2     regulations.

3                     Does that make sense?

4             A.     Makes sense.

5             Q.     Are you aware of a  
6     regulation that allows a distributor and  
7     its customer to sync their order  
8     monitoring systems?

9                     MS. MCCLURE:  Objection to  
10            form.

11                    THE WITNESS:  That's just  
12            general business acumen, I guess.

13     BY MR. CLUFF:

14             Q.     Is that a part of the  
15     partnership that Amerisource had with  
16     Walgreens?

17                    MS. MCCLURE:  Objection to  
18            form.

19                    THE WITNESS:  I don't know.

20     BY MR. CLUFF:

21             Q.     What does it mean to you  
22     when you say the words "sync" the two  
23     systems?

24             A.     They were on a different

1 platform than ours. So they would have,  
2 I think, visibility, in the future, of an  
3 order that might hit OMP on their end. I  
4 don't know.

5 Q. When you say "visibility,"  
6 do you mean into AmerisourceBergen's  
7 system?

8 A. No. It's a platform that  
9 the stores themselves order from and then  
10 we see it on our side, from what I  
11 recall.

12 Q. So AmerisourceBergen had  
13 visibility into Walgreens' system?

14 MS. MCCLURE: Objection to  
15 form.

16 THE WITNESS: No. Sorry.  
17 I'm not --

18 BY MR. CLUFF:

19 Q. I'm just trying to  
20 understand.

21 A. I'm not explaining that  
22 right.

23 The stores have a platform  
24 that they would order from, or that the

1 system automatically orders from.

2 Q. Let's stop right there.

3 Let's understand that portion, because it  
4 seems like we've got some steps along the  
5 way.

6 Walgreens stores had a  
7 system that they ordered controlled  
8 substances from, from Walgreens, like,  
9 central; is that what you're saying?

10 MS. MCCLURE: Objection.

11 THE WITNESS: I think so.

12 BY MR. CLUFF:

13 Q. Okay. And then what  
14 happened next?

15 A. And then that order gets  
16 transmitted over to SAP, which was our  
17 system.

18 So they don't have  
19 visibility to our system and we don't  
20 have visibility to theirs, but they were  
21 two different platforms.

22 Q. So when you say sync the  
23 system, do you mean something like  
24 helping the two systems communicate with

1 each other?

2 MS. MCCLURE: Objection to  
3 form.

4 THE WITNESS: Yes.

5 BY MR. CLUFF:

6 Q. Did --

7 A. Communicate but not visible,  
8 sorry.

9 Q. No. Finish your answer. Go  
10 ahead.

11 A. No, that's all.

12 Q. So your answer was  
13 communicate but not visible.

14 Do you mean not have  
15 visibility between the two?

16 A. Correct.

17 Q. Understood.

18 Did Amerisource sync its  
19 system with any other customers?

20 MS. MCCLURE: Objection to  
21 form.

22 THE WITNESS: I don't know.

23 BY MR. CLUFF:

24 Q. So based on your

1 understanding, this may be just a  
2 Walgreens-only kind of deal?

3 MS. MCCLURE: Objection to  
4 form. Misstates the witness's  
5 prior testimony.

6 THE WITNESS: I don't know.

7 BY MR. CLUFF:

8 Q. Okay. So if you recall, we  
9 got to this e-mail because I asked you if  
10 AmerisourceBergen ever communicated  
11 thresholds -- or when customers exceeded  
12 thresholds.

13 Do you recall that?

14 A. Yes.

15 Q. I think that was Exhibit-8,  
16 if you want to put it back in front of  
17 you.

18 So I'm going to give you two  
19 documents. And they've previously been  
20 admitted as exhibits in the deposition of  
21 Mr. Hazewski.

22 And I'm going to give you  
23 the first one. And just for clarity, I'm  
24 going to put another number on it, even

1     though it's already got a number on it.  
2     But for your deposition, we're going to  
3     refer to this e-mail as Exhibit-10.

4                                 -   -   -

5                                 (Whereupon,  
6                                 AmerisourceBergen-Garcia  
7                                 Exhibit-10, ABDCMDL00282490, was  
8                                 marked for identification.)

9                                 -   -   -

10    BY MR. CLUFF:

11                 Q.     And then I'm going to give  
12     you a document to put behind it that  
13     we're going to mark as Exhibit-11.

14                                 -   -   -

15                                 (Whereupon,  
16                                 AmerisourceBergen-Garcia  
17                                 Exhibit-11, ABDCMDL00282491, was  
18                                 marked for identification.)

19                                 -   -   -

20                                 MR. CLUFF:   So let me give  
21     you this.   And while you're  
22     familiarizing yourself, I'll  
23     collect my thoughts.

24                                 MS. MCCLURE:   It's a little



1 small.

2 MR. CLUFF: Shannon, this is  
3 one of the ones we discussed  
4 before we went on the record  
5 today, where I have a copy of the  
6 native file that I can blow up so  
7 it's easier for all of us to look  
8 at.

9 MS. MCCLURE: I mean, this  
10 is visible to me.

11 Can you see it?

12 THE WITNESS: Pretty much.

13 MR. CLUFF: So what I can  
14 do, Ms. Garcia, is I can have him  
15 load that spreadsheet up on the  
16 screen for us all to look at.

17 BY MR. CLUFF:

18 Q. But let me -- let me make a  
19 record right here.

20 So the cover e-mail, which  
21 we marked as Exhibit-10, is Bates  
22 numbered ABDCMDL00282490.

23 MR. CLUFF: And for the  
24 trial tech, that's Document 49.

1 BY MR. CLUFF:

2 Q. The spreadsheet, which is an  
3 attachment to the e-mail, which we marked  
4 as Exhibit-11, that's the one in your  
5 right hand there, that is marked as  
6 ABDCMDL00282491.

7 MR. CLUFF: And that's, for  
8 the trial tech, marked as  
9 Exhibit-50.

10 I will note that the cover  
11 e-mail is marked as, confidential  
12 subject to the protective order.  
13 For purposes of the deposition, we  
14 will designate -- or we will agree  
15 with counsel that the spreadsheet  
16 is maintaining the same  
17 designation.

18 BY MR. CLUFF:

19 Q. So why don't you look at  
20 that cover e-mail and the attachment,  
21 please, Ms. Garcia.

22 A. Okay.

23 Q. So let's look at the cover  
24 e-mail, which we marked as Exhibit-10.

1 Do you have that?

2 A. Okay.

3 Q. That's an e-mail from Ed  
4 Hazewski.

5 Do you see that he is the  
6 sender in the "from" line, right?

7 A. Uh-huh.

8 Q. And then if you look at the  
9 "to" line, it looks like there are a  
10 number of Walgreens e-mail addresses  
11 there?

12 A. Yes.

13 Q. Are those people that you  
14 would have communicated with in your work  
15 with Walgreens?

16 A. Yes. That's the WAG  
17 integrity team.

18 Q. And then you see there's a  
19 subject line that says, Data?

20 A. Yes.

21 Q. And the attachment is, WAG  
22 orders held.xlsx, correct?

23 A. Correct.

24 Q. And then -- so this is Ed

1 writing. And he says, Team WAG -- or  
2 team Walgreens -- find attached some data  
3 that I believe could be the basis for a  
4 part of our discussion. Briefly, the  
5 first tab is all WAG locations that had  
6 C-II order lines flagged by the OMP,  
7 sorted largest (most lines) to smallest.  
8 We can discuss further tomorrow.

9 So my question is, looking  
10 at this document, do you have a general  
11 understanding that the attachment would  
12 have been data provided by  
13 AmerisourceBergen to Walgreens?

14 A. Yes.

15 Q. And that the data that was  
16 provided was C-II order lines flagged by  
17 the OMP, correct?

18 A. Correct.

19 You need a magnifying glass.

20 MR. CLUFF: Zach, can you  
21 put the spreadsheet up, the PDF,  
22 please? And can you blow it up as  
23 big as possible so Ms. Garcia can  
24 look at it a little bit better?

1                   Not much better. It's  
2                   marginally better.

3       BY MR. CLUFF:

4               Q.       So based on Ed's e-mail, it  
5       looks like the spreadsheet that was  
6       attached would have had multiple tabs,  
7       correct?

8                   Looking at the e-mail, he  
9       says, The first tab.

10              A.       I guess that's implied. I  
11      don't see that here, though.

12              Q.       He says, on his sentence, on  
13      the Exhibit-10, second sentence, Briefly,  
14      the first tab is all Walgreens locations  
15      that had C-II order lines flagged by the  
16      OMP.

17              A.       Okay.

18              Q.       Okay. So looking at this  
19      exhibit --

20                   MR. CLUFF: Can you show me  
21                   the bottom left-hand corner of the  
22                   document, Zach?

23       BY MR. CLUFF:

24              Q.       Do you see down there in the

1 very bottom left-hand corner, there's a  
2 note -- I'm trying to blow it up on my  
3 screen, too, so I can see it.

4 A. ABDC -- what's that say?

5 Q. Down in the bottom  
6 right-hand corner, it says, Activity for  
7 March totals.

8 Do you see that?

9 A. Yes.

10 Q. If you look up at the very  
11 top left corner, where the chart starts,  
12 there is a column that says, DC.

13 Do you see that?

14 A. I see that.

15 Q. Would that have stood for  
16 distribution center?

17 A. Yes.

18 Q. And then the next chart  
19 over, there's a column that says, DEA  
20 number?

21 A. Correct.

22 Q. Would that be a DEA number  
23 of a customer?

24 MS. MCCLURE: Objection to

1 form.

2 THE WITNESS: I don't know  
3 if that's referencing the DC or  
4 the customer.

5 BY MR. CLUFF:

6 Q. Okay. Going over one more,  
7 there's a column that says, Customer  
8 number.

9 Do you see that?

10 A. Okay.

11 Q. Would that have been the  
12 Walgreens -- excuse me, the  
13 AmerisourceBergen customer or that  
14 customer's DEA number?

15 A. The customer number is an  
16 internal number that's on the ABC side.

17 Q. In the next column over, it  
18 says, Customer name?

19 A. Yes.

20 Q. Do you see that?

21 And if you kind of flip  
22 through this, this document, you'll see  
23 that they are all Walgreens, correct?

24 A. I see that, yes.

1 Q. Moving over one more,  
2 there's a column that says, Address.

3 Do you see that?

4 A. I see that.

5 Q. And next to that is, State.

6 Do you see that?

7 A. (Witness nods.)

8 Q. Pursuant to one of the  
9 orders in this case, I'm supposed to ask  
10 you questions primarily about Ohio  
11 jurisdictions.

12 So I took the native  
13 document that was attached to that  
14 e-mail, and I sorted it only for Ohio.

15 So if you flip through that  
16 document, you will see that the state is  
17 only Ohio.

18 Do you see that?

19 A. I see that.

20 Q. Okay. So the RX license  
21 number, do you see that?

22 A. I do.

23 Q. Do you know what that is?

24 A. That might be their license



1       number at the state level.

2               Q.       And then looking next column  
3       over, it says, Order date.

4               What is that?

5               A.       When they placed the order.

6               Q.       And then the next column  
7       over, that is, Sales order number.

8               Do you see that?

9               A.       I see that.

10              Q.       What is that number?

11              A.       That's the order number, I  
12       believe, that's generated by the SAP  
13       system.

14              Q.       So, so far, if we track this  
15       chart across, we're looking at DEA number  
16       for Walgreens customers.

17                      And from that, we're able to  
18       identify an order date and an order  
19       number, correct?

20              A.       Yes.

21              Q.       And the next column over,  
22       the heading is, Line.

23                      Do you see that?

24              A.       I see that.

1           Q.     Is that the number of lines  
2     that would have been included on an  
3     order?

4           A.     I don't know. I believe so.

5           Q.     Okay. If you look at the  
6     column, OMP family, do you see that?

7           A.     Yes.

8           Q.     What would that -- what  
9     would that column have reflected in the  
10    chart?

11          A.     That was the two-letter  
12    acronym for -- or abbreviation for a  
13    drug.

14          Q.     So looking down at OX,  
15    that's purple, what would that be?

16          A.     Oxycodone.

17          Q.     Do you have an understanding  
18    of what BO is at the top of that chart?

19          A.     Buprenorphine.

20          Q.     How about LA?

21          A.     Some kind of a liquid. I  
22    don't remember.

23          Q.     But, generally, you  
24    understand that if we looked at the OMP

1 family column here, we can determine what  
2 kind of drug was being ordered?

3 A. Yes.

4 Q. Maybe it's more appropriate,  
5 if I misspoke, to call them drug families  
6 were being ordered?

7 A. Yes.

8 Q. If you go over one more  
9 column, it says, Item number, correct?

10 A. Correct.

11 Q. What is an item number?

12 A. That's the sku, I believe,  
13 for that particular item.

14 Q. Forgive my lay  
15 misunderstanding, what's a sku? Is it an  
16 abbreviation?

17 A. It's a number assigned to  
18 different drug products.

19 Q. Like a S-K-U?

20 A. Yes.

21 Q. The next column over is,  
22 Material description.

23 Do you see that?

24 A. I see that.

1           Q.     So that the sort of, like,  
2     long-form description of the drug that  
3     was contained in the OMP family  
4     abbreviation?

5           A.     Yes.

6           Q.     So if we're looking at that  
7     column, for example, we see Suboxone,  
8     Oxycodone, OxyContin.

9                     Do you see that all that?

10          A.     I do.

11          Q.     So those drug families would  
12     correspond back to the OMP category?

13          A.     Yes.

14          Q.     If you scroll over to the  
15     next column, it says, NDC.

16                     What is NDC?

17          A.     You know, I don't know. I  
18     forget.

19          Q.     Looking over at the next  
20     column, do you see that category is  
21     called, Threshold?

22          A.     I do.

23          Q.     Would that category have  
24     been the threshold for this drug family

1 or OMP family?

2 MS. MCCLURE: Objection to  
3 form.

4 THE WITNESS: It appears to  
5 be, yes.

6 BY MR. CLUFF:

7 Q. So, for example, in the  
8 first line -- let me ask one more  
9 question.

10 Is this number, so looking  
11 at [REDACTED] in the first column, the first  
12 row, would that be dosage units?

13 A. Yes.

14 MS. MCCLURE: Objection to  
15 form.

16 BY MR. CLUFF:

17 Q. So that would be [REDACTED]  
18 dosage units of Suboxone, if you can look  
19 at it across there?

20 A. Yes.

21 Q. Okay. Continuing over to  
22 the right, it looks like there's a column  
23 that says, Override.

24 What is that column?

1           A.       That's the threshold  
2     adjustment.

3           Q.       So in this chart, thus far,  
4     we, in the last two columns, have  
5     identified that thresholds were  
6     identified in this document and threshold  
7     increases or modifications were  
8     identified?

9                   MS. MCCLURE:   Objection to  
10                   form.

11                  THE WITNESS:   In this  
12                   document, yes.

13     BY MR. CLUFF:

14           Q.       The next line over says,  
15     Consumed.

16                   What is that?

17           A.       That's how much they ordered  
18     in a 30-day period.

19           Q.       And then what's the order  
20     quantity?

21           A.       That particular order, how  
22     much they ordered.

23           Q.       So looking at -- let's just  
24     stay on that first line.

1 MR. CLUFF: Zach, if you can  
2 back out just a little bit to show  
3 the material description all the  
4 way through the order quantity.

5 Perfect.

6 BY MR. CLUFF:

7 Q. Do you see on the top line  
8 there, the material description is  
9 Suboxone?

10 A. Yes.

11 Q. And if we go across, we see  
12 the threshold is [REDACTED], right?

13 A. Yes.

14 Q. And you said that consumed  
15 meant they had consumed that much in a  
16 [REDACTED] period, right?

17 A. A [REDACTED].

18 Q. So when this order occurred,  
19 if I'm reading this chart correctly, they  
20 were [REDACTED] units over their threshold; is  
21 that right?

22 MS. MCCLURE: Objection to  
23 form.

24 BY MR. CLUFF:

1           Q.     I'm just trying to  
2 understand how to read this chart,  
3 really.

4           A.     Right.

5           Q.     Okay. And then they placed  
6 another order for [REDACTED] dosage units?

7           A.     Yes.

8           Q.     So they were already over  
9 threshold, and then they continued to  
10 order, right?

11                   MS. MCCLURE: Objection to  
12 form.

13                   THE WITNESS: If it rolls  
14 off after the [REDACTED], that number  
15 might go -- might decrease, and  
16 then this new order comes on.

17 BY MR. CLUFF:

18           Q.     Which number might decrease?

19           A.     Sorry. The consumed.

20           Q.     So you're talking about the  
21 process of orders coming in and out;  
22 sometimes the 30-day consumed number  
23 might drop and allow for a subsequent  
24 order to be fulfilled. Is that what



1       you're saying?

2               A.       Correct.

3               Q.       But on the date that this  
4       order was processed, they were already  
5       ██████ over their ████████████████████, right?

6               A.       That's a snapshot.

7               Q.       Well, on that snapshot of a  
8       day, they were ████████ units over just for  
9       that order of Suboxone, right?

10              A.       Correct.

11              Q.       If you go down to the third  
12       line, it says, OXYCOD/APAP/5/325  
13       milligrams.

14                      Do you see that?

15              A.       I see that.

16              Q.       And if we go over, the  
17       threshold is ████████ dosage units.

18                      Do you see that?

19              A.       I see that.

20              Q.       And they order -- their  
21       ██  
22       units; is that right?

23              A.       I see it.

24              Q.       I'm not good at math, but

1 the consumed is over the threshold,  
2 correct?

3 A. Correct.

4 Q. And then they ordered  
5 another [REDACTED] dosage units of Oxycodone  
6 APAP?

7 A. Correct.

8 Q. Let's go to the next column  
9 over that says, Status.

10 Do you see that?

11 A. I see that.

12 Q. Do you see the abbreviation  
13 CSX?

14 A. Yes.

15 Q. Do you know what that means?

16 A. I believe that was release.

17 Q. So continuing over, the next  
18 column says, Status date.

19 Would that be the date on  
20 which the status was changed?

21 MS. MCCLURE: Objection to  
22 form.

23 THE WITNESS: I don't  
24 remember what that is.

1 BY MR. CLUFF:

2 Q. Moving over to the next,  
3 there's a column that says, OMP freeform  
4 text.

5 Do you see that?

6 A. I see that.

7 Q. It says, Comments -- in the  
8 first column, it says, Comments added by  
9 A008710 at 18.37.44 on date 03/03/2001.

10 Do you have any idea what  
11 that means?

12 A. Comments added by whoever  
13 employee number that is, at that time,  
14 military time, on that date.

15 Q. So that's 1800 hours, 37  
16 minutes and 44 seconds?

17 A. Yes.

18 Q. That's roughly, like, 6:30;  
19 is that right?

20 A. Eastern Time.

21 Q. And A008710 would have been  
22 someone's employee number?

23 A. Yes.

24 Q. Do you know who it was, off

1 the top of your head?

2 A. No.

3 Q. Where could I find a list of  
4 everybody's employee numbers at  
5 AmerisourceBergen?

6 A. I don't know.

7 Q. Do you have any idea where  
8 that would have been kept?

9 A. No.

10 Q. Do you know what your  
11 employee ID number was?

12 A. No, I don't remember.

13 Q. Okay. Let's go over to the  
14 next two columns.

15 Do you see, Overage in DUs?

16 A. Yes.

17 Q. And I think on the version  
18 that you're looking at, which is in  
19 color, there is some red highlighting and  
20 red text; is that right?

21 A. Yes.

22 Q. Okay. And so overage in  
23 DUs, does "DU" stands for dosage units?

24 A. Dosage units, yes.

1           Q.     So remember earlier we  
2     talked about consumed being over the  
3     threshold for that first row, and I asked  
4     you if they were [REDACTED] over the  
5     threshold?

6                     Do you remember that  
7     question?

8           A.     Yes.

9           Q.     And here it says, Overage in  
10    dosage units. It says, [REDACTED]?

11          A.     Correct.

12          Q.     And next to that it says,  
13    Percentage over.

14                     Do you see that?

15          A.     Yes.

16          Q.     Or, Overage percentage.

17          A.     Yes.

18          Q.     [REDACTED] percent, right?

19          A.     Yes.

20          Q.     So going back to Exhibit-10,  
21    which is the e-mail from Ed Hazewski.

22          A.     Okay.

23          Q.     And it's sent to Walgreens,  
24    correct?

1           A.       It's sent to the integrity  
2 team.

3           Q.       The Walgreens integrity  
4 team?

5           A.       Yes.

6           Q.       And then when we looked at  
7 Exhibit-11, that's the spreadsheet,  
8 right?

9           A.       Yes.

10          Q.       Would you agree with me that  
11 it discloses what Walgreens thresholds  
12 are for various OMP families?

13                   MS. MCCLURE: Objection to  
14 form.

15                   THE WITNESS: To the  
16 Walgreens integrity team only.

17 BY MR. CLUFF:

18          Q.       How do you know what  
19 happened with this document after it was  
20 sent to the Walgreens integrity team?

21          A.       I don't know.

22          Q.       Okay. So you'll agree with  
23 me that, at a minimum, it was sent to the  
24 Walgreens integrity team, right?

1                   A.       Correct.

2                   Q.       And it showed them what the  
3       threshold was for the Walgreens stores,  
4       correct?

5                               MS. MCCLURE:   Objection to  
6       form.

7                               THE WITNESS:   That normally  
8       did not happen.   That was  
9       corrected later on.

10       BY MR. CLUFF:

11                   Q.       I appreciate that  
12       explanation.   But my question is a little  
13       bit more simple.

14                               This is an Excel spreadsheet  
15       that was transmitted to the Walgreens  
16       integrity team, right?

17                   A.       Correct.

18                   Q.       And it provided the  
19       Walgreens integrity team with an  
20       order-by-order analysis of the thresholds  
21       for various OMP families, correct?

22                   A.       On this document, correct.

23                   Q.       It also showed them the  
24       override for those thresholds, correct?

1                   A.       It did.

2                   Q.       It showed them how much they  
3    had consumed on their 30-day rolling  
4    threshold, correct?

5                   A.       Correct.

6                   Q.       It showed them the order  
7    that went over threshold, right?

8                               MS. MCCLURE:   Objection to  
9                   form.

10                           THE WITNESS:   Correct.

11   BY MR. CLUFF:

12                   Q.       It showed them the  
13   percentage over in dosage units as well,  
14   correct?

15                   A.       Correct.

16                   Q.       Okay.   I'm going to have you  
17   go back to Exhibit-8 and the e-mail you  
18   wrote to Matthew McElfresh.

19                               Do you see that?

20                   A.       I see that.

21                   Q.       You see in the first line,  
22   it says, We do not report to any customer  
23   what their limits are?

24                               Do you see that?



1           A.       I see that.

2           Q.       In the Walgreens document we  
3       just looked at, AmerisourceBergen told  
4       the Walgreens integrity team what their  
5       limits are, correct?

6                   MS. MCCLURE:   Objection to  
7       form.

8                   THE WITNESS:   That's what  
9       Lino pulled.

10       BY MR. CLUFF:

11           Q.       And that's what was sent by  
12       Ed Hazewski to the Walgreens integrity  
13       team, correct?

14           A.       Correct.

15           Q.       You also say, We do not  
16       report to any customer whether they are  
17       exceeding those limits.

18                   Do you see that?

19                   I cut a piece of that  
20       sentence out, but do you understand the  
21       point that I'm making?

22           A.       Yes.

23           Q.       In the spreadsheet we just  
24       looked at, that was sent by Ed Hazewski

1 to the Walgreens integrity team, you  
2 would agree that AmerisourceBergen told  
3 Walgreens whether they exceeded their  
4 limits, correct?

5 MS. MCCLURE: Objection to  
6 form.

7 THE WITNESS: This was an  
8 anomaly. But yes.

9 BY MR. CLUFF:

10 Q. Just to be clear, the  
11 spreadsheet that Ed Hazewski sent to the  
12 Walgreens integrity team disclosed to  
13 them whether they exceeded their limits,  
14 correct?

15 MS. MCCLURE: Objection to  
16 form. Asked and answered.

17 THE WITNESS: In this  
18 instance, yes.

19 BY MR. CLUFF:

20 Q. The end of your sentence  
21 says, It is against our policy to do so.  
22 So you would agree with me  
23 that when Ed Hazewski sent that  
24 spreadsheet to Walgreens, it violated

1 AmerisourceBergen policy, correct?

2 MS. MCCLURE: Objection to  
3 form.

4 THE WITNESS: Restate the  
5 question.

6 BY MR. CLUFF:

7 Q. Sure.

8 Your e-mail, the sentence  
9 here, ends by saying, It is against our  
10 policy to do so -- meaning against our  
11 policy to report to a customer their  
12 limits or when they exceed those limits.

13 My question is, when Ed  
14 Hazewski sent that spreadsheet to  
15 Walgreens, the integrity team, he was  
16 violating AmerisourceBergen policy,  
17 correct?

18 MS. MCCLURE: Objection to  
19 form.

20 THE WITNESS: He sent it to  
21 the integrity team. When I'm  
22 talking about customer, I'm  
23 talking about the individual  
24 independent pharmacy customer and

1                   that individual store.

2       BY MR. CLUFF:

3                   Q.       Are you looking at Exhibit-8  
4       with me?

5                   A.       8, yes.

6                   Q.       If you look at your first  
7       e-mail -- or the first e-mail from  
8       Matthew McElfresh, he asks you a question  
9       about Walmart in relation to Sam's Club.

10                          Do you see that?

11                   A.       I see that.

12                   Q.       He says, I report into  
13       Walmart regarding Sam's Club's OMP  
14       thresholds being met.

15                          Do you see that?

16                   A.       I see that.

17                   Q.       You previously described to  
18       me Sam's Club as a chain pharmacy; is  
19       that accurate?

20                   A.       That's accurate.

21                   Q.       So when you write this  
22       e-mail on August 22, 2017 to Matthew  
23       McElfresh, you're discussing a chain  
24       pharmacy, for example, Sam's Club,

1 correct?

2 A. Correct.

3 Q. And you say, quote, We do  
4 not report to any customer what their  
5 limits are or whether they are exceeding  
6 those limits or not, as it is against our  
7 policy to do so.

8 Correct?

9 A. Correct.

10 Q. Do you see anywhere in that  
11 sentence where you say anything about  
12 independent pharmacies versus chain  
13 pharmacies?

14 MS. MCCLURE: Objection to  
15 form.

16 THE WITNESS: No, I don't  
17 reference an independent store.

18 BY MR. CLUFF:

19 Q. In fact, in the beginning of  
20 that sentence, you say, We do not report  
21 to any customer.

22 Do you see that?

23 A. I see that.

24 Q. Walgreens is a customer,

1 correct? Is an AmerisourceBergen  
2 customer, correct?

3 A. Correct.

4 Q. So they would fall within  
5 the definition, presumably, of "any  
6 customer"?

7 MS. MCCLURE: Objection to  
8 form.

9 THE WITNESS: Walgreens is a  
10 special circumstance. They have  
11 counterparts on the integrity team  
12 that we share this data with.

13 BY MR. CLUFF:

14 Q. I previously asked you if  
15 you ever created -- if AmerisourceBergen  
16 ever created exceptions for chain  
17 pharmacies like Walgreens, and I believe  
18 you told me no.

19 Now you've just told me that  
20 this Walgreens situation is a special  
21 circumstance. I want to advise you that  
22 I personally believe that those are  
23 conflicting statements, and I am not  
24 going to make a big deal about it. But I

1 do want to make sure we get clear  
2 testimony today.

3 In fact, when we met -- when  
4 we began meeting this morning, I showed  
5 you a copy of your first performance  
6 review, where you identified yourself as  
7 a truthful person. So I would like it if  
8 we could really get some clear, truthful  
9 testimony on this subject here, okay?

10 MS. MCCLURE: Object to the  
11 implication that you're not. And  
12 objection to the speech.

13 Is there a question you have  
14 for the witness?

15 BY MR. CLUFF:

16 Q. So, Liz, I just want to ask  
17 some really simple questions, and we'll  
18 walk through this, and then we'll  
19 understand, okay?

20 Is Walgreens one of  
21 AmerisourceBergen's customers?

22 A. Yes.

23 Q. So --

24 MS. MCCLURE: Objection.

1           Asked and answered many times.

2           You may answer again.

3           MR. CLUFF: She already  
4           answered. Thank you, Shannon,  
5           your speaking objections are  
6           noted. We'd like you to truncate  
7           them and make the same objection  
8           briefly if you can.

9           I'm trying to get a clean  
10          line of testimony here, and your  
11          speaking objections are  
12          interrupting it.

13          MS. MCCLURE: You're asking  
14          the same question over and over  
15          again.

16          MR. CLUFF: I'm allowed to  
17          ask the same question, because she  
18          previously contradicted an answer  
19          now.

20          So I'm just trying to get a  
21          clear line of testimony. If you'd  
22          like to have her conflicting  
23          testimony used to impeach her own  
24          testimony later in the deposition,



1           we can do that. Otherwise, I'd  
2           like to get a clear record from  
3           her about why they were  
4           shipping -- giving threshold  
5           information and threshold overages  
6           to Walgreens.

7                   MS. MCCLURE: Continuing  
8           objection to the speech. Ask your  
9           questions of the witness. I'm  
10          going to continue to object to  
11          this line of questioning as having  
12          been asked and answered.

13                  MR. CLUFF: You have a  
14          standing objection now to this  
15          line of questioning.

16                  MS. MCCLURE: Thanks.

17                  MR. CLUFF: It's noted. So  
18          you can just reiterate same  
19          objection all the way through and  
20          we'll note that it is the same  
21          objection you've made here now  
22          voluminously as a speaking  
23          objection.

24          BY MR. CLUFF:

1 Q. So, Ms. Garcia --

2 MS. MCCLURE: The only  
3 reason I'm obligated to make that  
4 same objection is because you're  
5 asking the witness questions over  
6 and over again.

7 BY MR. CLUFF:

8 Q. Ms. Garcia, looking at  
9 Exhibit-8, is Walgreens one of  
10 AmerisourceBergen's customers?

11 MS. MCCLURE: Same  
12 objection.

13 THE WITNESS: Yes.

14 BY MR. CLUFF:

15 Q. You write here, in  
16 Exhibit-8, on August 22nd, We do not  
17 report to any customer what their limits  
18 are or whether they are exceeding those  
19 limits or not, as it is against our  
20 policy to do so.

21 My question, having read  
22 that sentence, is, was Walgreens one of  
23 AmerisourceBergen's, quote, any  
24 customers, closed quote?

1 MS. MCCLURE: Same

2 objection.

3 THE WITNESS: Walgreens is a  
4 customer.

5 BY MR. CLUFF:

6 Q. Okay. So according to your  
7 statements in this e-mail, you would  
8 agree with me that telling what -- a  
9 customer what their limits is or whether  
10 they are exceeding those limits is  
11 against AmerisourceBergen policy,  
12 correct?

13 MS. MCCLURE: Same  
14 objection. Form.

15 THE WITNESS: Correct.

16 BY MR. CLUFF:

17 Q. All right. So going back to  
18 Exhibit-10 and 11, that's the e-mail from  
19 Ed Hazewski to the Walgreens integrity  
20 team.

21 Again, Walgreens is a  
22 customer of AmerisourceBergen, correct?

23 MS. MCCLURE: Objection.

24 Asked and answered. Same

1 objection.

2 THE WITNESS: Correct.

3 BY MR. CLUFF:

4 Q. And Mr. Hazewski shares with  
5 the Walgreens integrity team an Excel  
6 spreadsheet, correct?

7 MS. MCCLURE: Objection.

8 Asked and answered.

9 THE WITNESS: Correct.

10 BY MR. CLUFF:

11 Q. And in that spreadsheet, as  
12 we just discussed -- we went through  
13 every single column in that spreadsheet,  
14 didn't we?

15 A. Yes.

16 Q. We saw that the spreadsheet  
17 contains a clear description of what the  
18 threshold is.

19 You can see it there on the  
20 screen in front of you.

21 MS. MCCLURE: Objection.

22 Asked and answered.

23 BY MR. CLUFF:

24 Q. Right?

1 A. Yes.

2 Q. It tells you what the  
3 override is, correct?

4 A. Correct.

5 MS. MCCLURE: Objection.

6 Asked and answered.

7 BY MR. CLUFF:

8 Q. It tells how much they've  
9 consumed when they made an order, right?

10 MS. MCCLURE: Same

11 objection.

12 THE WITNESS: Correct.

13 BY MR. CLUFF:

14 Q. And then all the way over to  
15 the right, it tells you the exact number  
16 of dosage units that that order went  
17 over, correct?

18 MS. MCCLURE: Same.

19 THE WITNESS: Correct.

20 BY MR. CLUFF:

21 Q. And the percentage over,  
22 correct?

23 MS. MCCLURE: Same.

24 THE WITNESS: Correct.

1 BY MR. CLUFF:

2 Q. Okay. So going back to  
3 Exhibit-8, when Mr. Hazewski sent that  
4 Excel spreadsheet to the Walgreens  
5 integrity team, it was against policy to  
6 do so, correct?

7 MS. MCCLURE: Objection.  
8 Form.

9 THE WITNESS: Restate.  
10 Sorry.

11 BY MR. CLUFF:

12 Q. When Mr. Hazewski sent that  
13 spreadsheet to the Walgreens integrity  
14 team, it was against policy to do so?

15 MS. MCCLURE: Same  
16 objection. Form.

17 THE WITNESS: No. Because  
18 he sent it to the Walgreens  
19 integrity team, who are our  
20 counterparts at Walgreens.

21 BY MR. CLUFF:

22 Q. Can you show me in this  
23 e-mail where it says anything about, but  
24 you can do it if you send it to an

1 integrity team?

2 MS. MCCLURE: Objection.

3 Argumentative.

4 THE WITNESS: It's not on  
5 here.

6 BY MR. CLUFF:

7 Q. Okay. So that qualification  
8 you just made is nowhere in this  
9 document, correct?

10 MS. MCCLURE: Objection.

11 Asked and answered.

12 THE WITNESS: Not in this  
13 document.

14 BY MR. CLUFF:

15 Q. All right. So just to  
16 recap, that spreadsheet had thresholds  
17 and how much the customer was over the  
18 threshold, correct?

19 MS. MCCLURE: Objection.

20 Same objection. Asked and  
21 answered.

22 THE WITNESS: I see  
23 thresholds, yes.

24 BY MR. CLUFF:

1 Q. And you see how they  
2 exceeded those thresholds, too, correct?

3 MS. MCCLURE: Same  
4 objection.

5 THE WITNESS: I see that.  
6 BY MR. CLUFF:

7 Q. Now, back to Exhibit-8.  
8 In the next sentence, you  
9 write, That would be circumventing our  
10 own suspicious order monitoring program.

11 MS. MCCLURE: Objection.  
12 Same.

13 BY MR. CLUFF:

14 Q. Right? That's what you  
15 wrote?

16 MS. MCCLURE: Same.

17 THE WITNESS: I wrote that,  
18 yes.

19 BY MR. CLUFF:

20 Q. Okay. Great. Thank you.  
21 You can put those aside. I'm done with  
22 them.

23 MR. MAHADY: Sterling, one  
24 quick thing, just so the record is



1 clear because you guys zoomed on  
2 it. The date down there --

3 MR. CLUFF: Yes, that's the  
4 date that we would have created it  
5 from the native file.

6 MR. MAHADY: That's what I  
7 though. Just wanted to make that  
8 clear. 2018, that's the print  
9 date.

10 BY MR. CLUFF:

11 Q. Liz, if you could -- excuse  
12 me, Ms. Garcia, pick up Exhibit-5.

13 We previously discussed -- I  
14 believe you testified that you attended a  
15 DEA distributor briefing in Phoenix in  
16 2017.

17 Do you recall that?

18 A. Correct.

19 Q. If you turn back a few pages  
20 to the beginning of the slides, do you  
21 see the page that begins with, The  
22 distributor initiative.

23 A. Yes.

24 Q. At the bottom of that slide,

1 it says, August 2005 to the present.

2 In August 2005, you would  
3 have been working at the DEA in Los  
4 Angeles, correct?

5 A. Correct.

6 Q. Do you recall any discussion  
7 within the DEA, at that point in time,  
8 about the distributor initiative?

9 A. No.

10 Q. There's a note here about  
11 briefings to 104 firms with 314  
12 registrations.

13 Did you ever participate in  
14 any of those briefings?

15 MS. MCCLURE: Objection.

16 THE WITNESS: No.

17 BY MR. CLUFF:

18 Q. Looking down at the next  
19 page, this says, Briefing overview.

20 Do you see that?

21 A. I see that.

22 Q. The first bullet point is,  
23 The prescription drug abuse epidemic.

24 A. I see that.

1           Q.     Do you recall what the DEA  
2     discussed under that bullet point, or  
3     about that bullet point?

4           A.     They may have given an  
5     overview.

6           Q.     I'm going to ask you some  
7     questions about this document that your  
8     counsel may have discussed with you. I  
9     just want to be really careful that I  
10    don't want you to disclose anything that  
11    your counsel would have talked to you  
12    about or that you would have learned  
13    about from your time as an active  
14    investigator with the DEA.

15                So I'm just --  
16    understanding your -- I want to ask  
17    questions about your understanding of  
18    this document from when you were there  
19    and as you were working as a diversion  
20    investigator at AmerisourceBergen.

21                Does that make sense?

22                MS. MCCLURE: From both time  
23                periods? Her time at --

24                THE WITNESS: Makes sense.

1 MS. MCCLURE: I'm just  
2 clarifying.

3 MR. CLUFF: I might ask her  
4 if she has an understanding about  
5 something here based on her work  
6 at DEA. But I want to be careful  
7 that you don't give me anything  
8 that would violate the law  
9 enforcement privilege.

10 Does that make sense?

11 THE WITNESS: That makes  
12 sense.

13 MR. CLUFF: So nothing that  
14 would compromise an investigation  
15 or disclose information about an  
16 ongoing investigation.

17 BY MR. CLUFF:

18 Q. So the second bullet point  
19 on that slide is, The closed system of  
20 distribution.

21 Do you know what that means?

22 A. That's the supply chain.

23 Q. What do you mean by "the  
24 supply chain"?

1           A.       Manufacturers, distributors,  
2       importers, chemical manufacturers.

3           Q.       What does it mean to have a  
4       closed system of distribution?

5           A.       Going from one point to  
6       another point and not going outside that  
7       system.

8           Q.       You do see the third bullet  
9       point that says, Your responsibilities?

10          A.       Yes.

11          Q.       Do you see it?

12                   Second one is, Know Your  
13       Customers.

14                   Do you see that?

15          A.       Yes.

16          Q.       Is that the same Know Your  
17       Customer information that we discussed  
18       earlier was mandated by the DEA?

19                   MS. MCCLURE:   Objection to  
20       the form.

21                   THE WITNESS:   I believe so.

22       BY MR. CLUFF:

23          Q.       And you see the next point  
24       down is, Red flags.

1 Do you see that?

2 A. I see that.

3 Q. What are red flags?

4 A. Red flags as they pertain to  
5 diversion.

6 Q. What are they?

7 MS. MCCLURE: Objection to  
8 the form.

9 THE WITNESS: High cash  
10 payments, lines out the door at  
11 the pharmacy, those types of  
12 things.

13 BY MR. CLUFF:

14 Q. Would a high percentage of  
15 controlled substances to noncontrols be a  
16 red flag?

17 A. Possibly.

18 Q. How about deviations from an  
19 ordering pattern, would that be a red  
20 flag?

21 MS. MCCLURE: Objection.

22 THE WITNESS: It depends on  
23 the totality of the circumstances.

24 BY MR. CLUFF:

1           Q.     But is it one of the  
2     potential red flags?

3                     MS. MCCLURE:   Objection to  
4     form.

5                     THE WITNESS:   In the whole,  
6     maybe.

7     BY MR. CLUFF:

8           Q.     How about orders of unusual  
9     size, would that be one of the overall  
10    red flags that AmerisourceBergen, a  
11    registrant, should have been looking at?

12                    MS. MCCLURE:   Objection to  
13    form.

14                    THE WITNESS:   We looked at  
15    orders of interest.   And then once  
16    we looked at the order, then we  
17    would look at the drug and the  
18    amounts and that type of thing.

19    BY MR. CLUFF:

20           Q.     How did the red flags play  
21    into that process you just described?

22                    MS. MCCLURE:   Objection to  
23    the form.

24                    THE WITNESS:   It didn't.

1 BY MR. CLUFF:

2 Q. So if an order exceeded  
3 threshold and it became an order of  
4 interest, AmerisourceBergen didn't look  
5 at red flags?

6 MS. MCCLURE: Objection to  
7 form.

8 THE WITNESS: Only with the  
9 totality of the circumstances, if  
10 a deeper dive was required.

11 BY MR. CLUFF:

12 Q. So unless AmerisourceBergen  
13 decided to do a deep dive on an order of  
14 interest, they didn't look at red flags;  
15 is that what you're saying?

16 MS. MCCLURE: Objection to  
17 form.

18 THE WITNESS: Red flags were  
19 looked at, at the due diligence  
20 investigation stage.

21 BY MR. CLUFF:

22 Q. What stage was that?

23 A. When they onboarded with  
24 ABC.



1           Q.     So let me just understand  
2     the process, then.

3                     A customer comes -- tries to  
4     come on board with ABDC, right? And  
5     there's a due diligence investigation to  
6     evaluate whether they should be taken on  
7     as a customer?

8           A.     Correct.

9           Q.     Okay. And part of that was  
10    the 590s, right?

11          A.     Correct.

12          Q.     And during that due  
13    diligence investigation, Amerisource  
14    looked at red flags; is that what you  
15    just said?

16                   MS. MCCLURE: Objection to  
17    form.

18                   THE WITNESS: Red flags  
19    could include disciplinary action,  
20    prior, for, maybe, excessive  
21    purchases or diversion of drugs or  
22    something.

23    BY MR. CLUFF:

24          Q.     And then we'll continue this

1     hypothetical, or just line of  
2     understanding that if a customer was  
3     approved for service by  
4     AmerisourceBergen, they could begin  
5     purchasing controlled substances,  
6     correct?

7                     MS. MCCLURE:   Objection to  
8             form.

9                     THE WITNESS:   Yes.

10    BY MR. CLUFF:

11             Q.     And sometimes orders may  
12     have exceeded parameters and become  
13     orders of interest; is that right?

14             A.     They would hit the algorithm  
15     and be orders of interest.

16             Q.     And part of the algorithm  
17     was the thresholds, right?

18                     MS. MCCLURE:   Objection to  
19             form.

20                     THE WITNESS:   It was in  
21     relation to, yes.

22    BY MR. CLUFF:

23             Q.     You were involved in the  
24     rollout of the revised OMP system, right?

1 A. Yes.

2 Q. Prior to the review of  
3 the -- or the rollout of the OMP system,  
4 Amerisource used, exclusively, a 300  
5 percent threshold, right?

6 MS. MCCLURE: Objection to  
7 the form.

8 THE WITNESS: I don't  
9 recall.

10 BY MR. CLUFF:

11 Q. Okay. But so, an order  
12 becomes an order of interest because it  
13 hits the parameters, correct?

14 A. Correct.

15 Q. And then what I'm trying to  
16 understand is, do you look at red flags  
17 at that point in time?

18 MS. MCCLURE: Objection.

19 THE WITNESS: It's an order  
20 of interest. So haven't opened it  
21 yet.

22 BY MR. CLUFF:

23 Q. What do you do with it then?

24 A. It stays in the queue until

1 we get to it.

2 Q. What happens when you get to  
3 it?

4 A. When you get to it, you look  
5 at the order and the totality of the  
6 circumstances.

7 Q. What are the totality of the  
8 circumstances?

9 A. Looking at what the drug is,  
10 who the customer is, customer type, that  
11 type of thing.

12 Q. So at that point in time,  
13 you're not looking at red flags anymore?

14 MS. MCCLURE: Objection to  
15 form.

16 THE WITNESS: You're looking  
17 at using tools to look at that  
18 order and ascertain if it is  
19 suspicious or not.

20 BY MR. CLUFF:

21 Q. What are the tools that you  
22 would look at -- look at that order and  
23 ascertain whether or not it's suspicious?

24 MS. MCCLURE: Object to

1 form.

2 THE WITNESS: Dashboards.

3 BY MR. CLUFF:

4 Q. Is that the BOBJ topic we  
5 discussed earlier?

6 MS. MCCLURE: Objection.

7 THE WITNESS: That could be  
8 one of them.

9 BY MR. CLUFF:

10 Q. Are there other dashboards?

11 A. There were.

12 Q. Were there, like, tear  
13 sheets?

14 A. I don't know if that was the  
15 term. Just dashboards.

16 Q. I'm not trying to argue with  
17 you about it. I'm just trying to  
18 understand what's in and what's out at  
19 what different point of the analysis.

20 So it sounds like you were  
21 looking at a lot of information. But I  
22 haven't heard you mention red flags when  
23 you were reviewing orders of interest.

24 So my question is, did you

1 or did you not look at orders of interest  
2 when you were reviewing -- did you or did  
3 you not look at red flags when you were  
4 reviewing orders of interest?

5 MS. MCCLURE: Objection to  
6 form.

7 THE WITNESS: We did look  
8 for red flags to see if there was  
9 anything that would be there.

10 BY MR. CLUFF:

11 Q. When you were reviewing  
12 orders of interest?

13 A. When we were looking at the  
14 order, yes.

15 Q. Turn with me to Page  
16 ABDCMDL00162354.

17 Do you see the top there, it  
18 says, Public health epidemic?

19 A. Yes.

20 Q. It's 2000 to 2015. And it  
21 continues, Over 550,000 unintentional  
22 drug overdose deaths in the U.S.

23 Do you see that?

24 A. I see that.

1                   Q.       In 2015, 52,404 drug-related  
2 overdose deaths.

3                             Do you see that?

4                   A.       I see that.

5                   Q.       Can you please pick up  
6 Exhibit-4 and turn to the second page?

7                             There, at the top of the  
8 page, that's the e-mail where you used  
9 the language, quote, Towards our goal of  
10 protecting the interests of our valued  
11 customers and AmerisourceBergen.

12                            Do you see that?

13                   A.       Is that in the second  
14 paragraph?

15                   Q.       Yes.

16                   A.       I see that, yes.

17                   Q.       That e-mail was written in  
18 2013, correct?

19                   A.       Yes. Correct.

20                   Q.       That's the same time period  
21 during which the DEA identified 550,000  
22 unintentional overdoses between 2000 and  
23 2015?

24                   A.       Yes.

1 Q. Okay. You can set that  
2 aside.

3 Can you pick up Exhibits-10  
4 and 11, please?

5 Just looking at Exhibit-10,  
6 that's the e-mail where Ed Hazewski sent  
7 the threshold information to the  
8 Walgreens integrity team, correct?

9 A. Correct.

10 Q. That's dated 2014, correct?

11 A. Correct.

12 Q. We agreed earlier that  
13 sharing threshold information and when  
14 orders exceed threshold not only violates  
15 ABC policy, it circumvents OMP; is that  
16 right?

17 MS. MCCLURE: Objection to  
18 the form. Misstates the witness's  
19 prior testimony.

20 THE WITNESS: What did I  
21 say? I don't remember.

22 BY MR. CLUFF:

23 Q. It's Exhibit-8.

24 So Exhibit-8 is the e-mail



1     where you write to Matthew McElfresh, and  
2     you say that, Reporting to any customer  
3     their limits or whether they're exceeding  
4     limits or not is against our policy. In  
5     addition, that would be circumventing our  
6     own suspicious order monitoring program.

7                     Right?

8                     MS. MCCLURE: Objection. Is  
9                     there a question?

10                    MR. CLUFF: I'm just  
11                    understanding.

12     BY MR. CLUFF:

13                    Q.     That's what you said,  
14                    correct?

15                    MS. MCCLURE: Objection to  
16                    form.

17                    THE WITNESS: That's stated.

18     BY MR. CLUFF:

19                    Q.     So in Exhibit-10, when Ed  
20                    sends that spreadsheet, he's violating  
21                    policy and circumventing the suspicious  
22                    order monitoring program, correct?

23                    MS. MCCLURE: Objection to  
24                    the form. Asked and answered.

1 Misstates the witness's prior  
2 testimony.

3 THE WITNESS: I don't know.

4 BY MR. CLUFF:

5 Q. But he sent that e-mail in  
6 2014, right?

7 A. Correct.

8 MS. MCCLURE: Objection to  
9 form. Asked and answered.

10 BY MR. CLUFF:

11 Q. That's during that same time  
12 period where the DEA identified 550,000  
13 unintentional drug overdoses between 2000  
14 and 2015, correct?

15 MS. MCCLURE: Objection to  
16 the form.

17 THE WITNESS: During the  
18 same time period, yes.

19 BY MR. CLUFF:

20 Q. Please pick up Exhibit-6.  
21 It's the 2016 performance evaluation.

22 A. Okay.

23 Q. You do you see on the second  
24 page there, it talks about targeted

1 pharmacy visits as assigned?

2 A. Where are you?

3 Q. Second page, at the bottom,  
4 it says, Completed target visits --  
5 completed targeted pharmacy visits.

6 A. Yes.

7 Q. And when we talked about  
8 this document, we then looked at the  
9 third page to look at your comments  
10 that -- on the far right column.

11 Do you see that?

12 A. I see that.

13 Q. And at the bottom there, you  
14 say, However, the goal is to always  
15 maintain the entity as an ABC customer.

16 Do you see that?

17 MS. MCCLURE: Objection.

18 Asked and answered.

19 THE WITNESS: I see that.

20 BY MR. CLUFF:

21 Q. Okay. And this performance  
22 evaluation was between October 2015 and  
23 November 2016, correct?

24 A. Correct.

1           Q.     So that's right around the  
2     end of the period where the DEA  
3     identified 550,000 unintentional drug  
4     overdose deaths between 2000 and 2015,  
5     correct?

6                     MS. MCCLURE:   Object to  
7             form.

8                     THE WITNESS:   It's around  
9             the same time period.

10    BY MR. CLUFF:

11           Q.     Okay. I want to go back a  
12    couple of pages. There's a slide that  
13    says, Compliance with CSA. It's on Page  
14    162352.

15                     It's in Exhibit-5, I'm  
16    sorry.

17           A.     Exhibit what?

18           Q.     Exhibit-5, the large  
19    PowerPoint from the DEA.

20           A.     Okay.

21                     MS. MCCLURE:   Exhibit-5, you  
22             said?

23                     MR. CLUFF:    Yes.

24                     MR. MAHADY:   You said the

1 page ending in 352.

2 MR. CLUFF: Yes. You have  
3 the benefit of stapled copies.  
4 Mine are all loose, so I keep  
5 misplacing pages.

6 352, the bottom slide says,  
7 Compliance with the CSA.

8 THE WITNESS: Okay.

9 BY MR. CLUFF:

10 Q. Do you see that?

11 A. Yes.

12 Q. In that slide, it looks like  
13 there's some underlining, or is that  
14 maybe just in my copy?

15 MR. MAHADY: I don't see  
16 underlining.

17 MS. MCCLURE: No  
18 underlining.

19 MR. CLUFF: I underlined  
20 some in my copy, we won't talk  
21 about that.

22 BY MR. CLUFF:

23 Q. Let's move on to the next  
24 page. There is a pop quiz. Do you see

1       that?

2                       It says, What is the most  
3       prescribed prescription drug in the  
4       United States?

5               A.       Yes.

6               Q.       Did you circle B or did I  
7       circle B?

8               A.       I believe I did.

9               Q.       Is there any reason why you  
10      circled hydrocodone?

11              A.       Because that was the answer.

12              Q.       Did you know that was the  
13      answer before the DEA revealed it in the  
14      next slide?

15              A.       Yes.

16              Q.       How were you aware of that  
17      information?

18              A.       Just based on knowledge.

19              Q.       If you move forward a few  
20      pages, there's a page that ends in  
21      162357. The top slide says, National  
22      overdose deaths. The bottom slide says,  
23      Opioid involvement in benzodiazepine  
24      overdose.

1 Do you see that?

2 A. I see that.

3 Q. There's some notes in the  
4 column next to it that look like they  
5 say, BD plus opioid, and then there's a  
6 star.

7 Are those your notes?

8 A. Those are my notes.

9 Q. What did you mean to  
10 communicate with those notes to yourself?

11 MS. MCCLURE: Objection to  
12 the form.

13 THE WITNESS: BD plus  
14 opioid -- I don't remember if this  
15 was just to write a note to myself  
16 indicating what was said on this  
17 slide so I could come back to it  
18 later. I don't know if I assigned  
19 a meaning to it.

20 BY MR. CLUFF:

21 Q. Okay. Would you move  
22 forward, please, a few slides, a few  
23 pages, to the page that ends 162359, the  
24 top slide reads, Prescription opioid

1       analgesic poisoning deaths.

2                       Do you see that?

3               A.       I see that.

4               Q.       Underneath that, it says,  
5       Opioid involved drug poisoning death  
6       rates by state, 1999.

7                       Do you see that?

8               A.       Yes.

9               Q.       There's a note next to it  
10       that says, 2003.

11                      Do you know what that note  
12       is?

13               A.       I don't remember.

14                      MR. CLUFF:   Staying on that  
15       page, but zooming out, please,  
16       Zach, so we can see the entire  
17       page.

18       BY MR. CLUFF:

19               Q.       The next slide says,  
20       Prescription opioid analgesic poisoning  
21       deaths.

22                      So it's the same heading,  
23       right?

24               A.       Yes.



1           Q.     But underneath that, the  
2     bottom slide says, Opioid involved drug  
3     poisoning deaths by state, 2013.

4                     Do you see that?

5           A.     I see that.

6           Q.     In the bottom right-hand  
7     corner of both slides, it looks like  
8     there's a color key, or a color  
9     reference.

10                    Do you see that?

11          A.     I see that.

12          Q.     So it looks like the darker  
13     it gets, the worse the deaths get,  
14     correct, or the higher the deaths get?

15                    MS. MCCLURE:  Objection to  
16     form.

17                    THE WITNESS:  That's what it  
18     appears, I think.

19   BY MR. CLUFF:

20          Q.     You worked in the West  
21     Region when you were at  
22     AmerisourceBergen, correct?

23                    MS. MCCLURE:  Objection.  
24     Form.

1 THE WITNESS: In the  
2 beginning, yes.

3 BY MR. CLUFF:

4 Q. And where did you work at  
5 the end?

6 A. The Midwest.

7 Q. What states were included in  
8 the Midwest?

9 A. Texas, Missouri.

10 Q. Any others? How about  
11 Oklahoma?

12 A. Nebraska, Kansas.  
13 Oklahoma reported to the  
14 Dallas DC.

15 And Utah, I think.

16 Q. Utah?

17 A. Yeah, he put Utah in.

18 Q. I have some family from  
19 Utah. Let's use that.

20 At the top chart, it looks  
21 like in the state of Utah, which is right  
22 there in the Midwest, it looks like it  
23 says 4.0.

24 Can you see that?

1           A.     Barely.

2           Q.     The quality on that image is  
3 really grainy. It's better on the paper,  
4 I think.

5                     Maybe it's a 6.0?

6                     MS. MCCLURE: I'm not sure.

7 BY MR. CLUFF:

8           Q.     How about this, we'll just  
9 look at the color.

10                    It's gray, correct?

11           A.     I guess so.

12                    MS. MCCLURE: They're all  
13 gray.

14 BY MR. CLUFF:

15           Q.     Let's look at the bottom  
16 chart.

17                    Do you see that? The great  
18 state of Utah.

19           A.     Yes.

20           Q.     It's a white 15.2 in the  
21 middle, and that state is now black,  
22 correct?

23           A.     Correct.

24           Q.     So just looking at these two

1 charts, you were there, you were  
2 listening to the DEA talk, did they have  
3 any comments to you about the increase in  
4 overdose deaths between '99 and 2013?

5 A. They just noted it in the  
6 presentation.

7 Q. Looking at these two maps  
8 overall, would you agree that,  
9 nationwide, opioid overdose deaths  
10 increased?

11 A. Drug poisoning death rates.  
12 That's what it appears.

13 Q. Let's move to  
14 ABDCMDL00162363. It's a few pages back  
15 in the presentation.

16 The top slide says,  
17 Nationwide reported deaths. The bottom  
18 one says, Number of distributor thefts  
19 nationwide.

20 A. Okay.

21 Q. There's a note there in the  
22 margins that says, Internal, with a  
23 little line to the other, slash, other,  
24 2,695 thefts.

1 Do you see that?

2 A. I see that.

3 Q. What does that mean?

4 A. I would think that's  
5 internal to -- internal thefts of  
6 whatever business it is.

7 Q. So do you have any  
8 understanding of what an internal theft  
9 might be?

10 A. Someone in the warehouse,  
11 maybe, that would take something.

12 Q. But it would be a theft from  
13 within a company's own premises, right,  
14 not one between two companies?

15 MS. MCCLURE: Objection to  
16 form.

17 THE WITNESS: I guess so,  
18 yes.

19 BY MR. CLUFF:

20 Q. So that's different than  
21 lost in transit, which is over to the  
22 left side of that slide?

23 A. Correct.

24 Q. I want to have you move back

1 a couple more slides to 162366.

2 The top slide says, Deaths  
3 related to pharmaceutical controlled  
4 substances.

5 Do you see that?

6 A. I see that.

7 Q. The one in the middle, it's  
8 Prince Roger Nelson.

9 Do you see that?

10 A. I see that.

11 Q. Apparently, underneath  
12 there, there's a parenthetical that says  
13 Fentanyl.

14 Do you know if Prince died  
15 of a Fentanyl overdose?

16 MS. MCCLURE: Objection to  
17 form.

18 THE WITNESS: That's what  
19 was reported in the media.

20 BY MR. CLUFF:

21 Q. Did you ever hear anything  
22 about concerns that AmerisourceBergen  
23 might have supplied the pharmacy that  
24 dispensed Fentanyl to Prince?

1 MS. MCCLURE: Objection to  
2 form.

3 THE WITNESS: No.

4 BY MR. CLUFF:

5 Q. Turning to the next page,  
6 ABDCMDL00162367.

7 Top slide says, Our youth.  
8 Do you see that?

9 A. Uh-huh.

10 Q. Next to that slide, does  
11 that appear to be notes that you would  
12 have written?

13 A. Yes.

14 Q. You wrote, what looks like  
15 to me, it says, Pharm parties, quote,  
16 grab a spoon, closed quote?

17 A. Yes.

18 Q. Do you remember what the DEA  
19 was communicating with this slide?

20 A. I don't recall, other than  
21 they were saying that there is parties  
22 that people go to and they put  
23 pharmaceuticals in a bowl or something.  
24 I don't remember.

1           Q.     Move back a couple of pages  
2     to 162369. The top slide appears to be a  
3     Drug Enforcement Administration  
4     announcement from the Detroit News.

5                     Do you see that?

6           A.     I see that.

7           Q.     At the top of the slide  
8     there's a note that says, Read.

9                     Are those your notes?

10          A.     That's my note.

11          Q.     Were you making a note to  
12     yourself that you should read this  
13     article?

14          A.     Probably.

15          Q.     Do you ever end up reading  
16     it, do you recall?

17          A.     I don't remember.

18          Q.     There's also an arrow in the  
19     margin that appears to be pointing to a  
20     syntax that says, Chasing the Dragon  
21     documentary.

22                     Do you see that?

23          A.     I see that.

24          Q.     What was that arrow for?



1 A. I don't remember.

2 Q. I want to look down at the  
3 bottom slide on that same page.

4 It says, Increase in  
5 overdose deaths, Arizona.

6 Was Arizona a part of your  
7 region when you were assigned the West  
8 Region?

9 A. In the beginning it might  
10 have been.

11 Q. The title there says, Data:  
12 Arizona heroin, prescription drug  
13 overdoses escalating.

14 Do you see that?

15 A. I see that.

16 Q. Do you see the date on that  
17 article is March 2016?

18 A. I see that.

19 Q. Would you have been  
20 responsible for that region at that  
21 period of time?

22 A. I don't believe so, no.

23 Q. Do you know who would have  
24 been responsible for that region?

1           A.     I don't remember.

2           Q.     Please continue in this  
3 document to the page that ends in 162371.

4                   Do you see that?

5           A.     Yes.

6           Q.     At the bottom there, it  
7 looks like there's a slide that says,  
8 Closed system of distribution.

9                   Do you see that?

10          A.     I see that.

11          Q.     And there's some arrows that  
12 go in a circle.

13                   Do you see that?

14          A.     Yes.

15          Q.     All right. Do you know what  
16 a feedback loop is?

17                   MS. MCCLURE: Objection to  
18 form.

19 BY MR. CLUFF:

20          Q.     So let me give you an  
21 example.

22                   When I was younger, there  
23 was this graphic that people used to  
24 describe the benefits of recycling. And

1     it had a triangle like that and every  
2     side of the triangle had an arrow that  
3     led to the next side of the triangle and  
4     it says reduce, recycle, reuse.

5                     Remember that?

6                     That's a feedback loop. I'm  
7     going to call that a feedback loop, okay?

8                     MS. MCCLURE: Objection.

9                     THE WITNESS: Okay.

10    BY MR. CLUFF:

11                    Q.     Do you understand the  
12    concept of a feedback loop, that every  
13    part of it continues to feed the cycle?

14                    MS. MCCLURE: Objection to  
15    the form.

16                    THE WITNESS: Yes.

17    BY MR. CLUFF:

18                    Q.     Okay. Looking at this page,  
19    I don't know if this is a feedback loop  
20    or not, but I'm just trying to  
21    understand, looking at this, these arrows  
22    here on the bottom slide, appearing on  
23    the left, there's an arrow that says,  
24    Foreign manufacture.

1 Do you see that?

2 A. I see that.

3 Q. Do you have any recollection  
4 of why that is lighter than some of the  
5 other arrows?

6 MS. MCCLURE: Objection to  
7 form.

8 THE WITNESS: I don't.

9 BY MR. CLUFF:

10 Q. Okay. And then it goes to  
11 an importer; is that right?

12 A. Yes.

13 Q. And a manufacturer, correct?

14 A. Yes.

15 Q. And then to the  
16 distributors?

17 A. Yes.

18 Q. Then to the practitioner,  
19 pharmacy, hospital, clinics?

20 A. Yes.

21 Q. Are those all examples of  
22 customers?

23 A. Yes.

24 Q. Okay. And then there's an

1       arrow that goes to the patient, correct?

2               A.       Yes.

3               Q.       And then there's this arrow  
4       with a question mark.

5               Do you see that?

6               A.       Yes.

7               Q.       Do you recall anything about  
8       this slide?

9               A.       I don't recall.

10              Q.       All right. Flip to the next  
11      page. So 162372.

12              Do you see that?

13              A.       Yes.

14              Q.       The top says, Closed system  
15      of distribution, correct?

16              A.       Correct.

17              Q.       All right. Do you see on  
18      the right-hand side where it says,  
19      Registration?

20              A.       Yes.

21              Q.       You worked at the DEA for  
22      two years, correct?

23              A.       Correct.

24              Q.       And when you were at the

1     DEA, you developed a thorough  
2     understanding of the rules and  
3     regulations, correct?

4             A.     Correct.

5             Q.     Okay. How would you  
6     describe AmerisourceBergen's regulatory  
7     obligation as a registrant?

8                    MS. MCCLURE: Objection to  
9     form.

10                   THE WITNESS:  
11     AmerisourceBergen met their  
12     regulatory obligations as outlined  
13     by the CSA, Controlled Substance  
14     Act.

15     BY MR. CLUFF:

16             Q.     I appreciate that  
17     explanation. But not to quibble with  
18     you, that wasn't the question that I  
19     asked. So I'm going to make it a little  
20     bit more clear, because maybe it was  
21     poorly worded.

22                    Do you understand the  
23     regulatory obligations or duties of a  
24     registrant under the Controlled

1 Substances Act?

2 A. Can you restate, please?

3 Q. Sure.

4 Do you understand the  
5 regulatory obligations or duties of a  
6 registrant under the Controlled  
7 Substances Act?

8 MS. MCCLURE: Objection to  
9 form.

10 THE WITNESS: They are  
11 outlined in the 21 C.F.R. Part  
12 1300.

13 BY MR. CLUFF:

14 Q. So do you have an  
15 understanding of them?

16 MS. MCCLURE: Objection to  
17 form.

18 THE WITNESS: General.

19 BY MR. CLUFF:

20 Q. What's your general  
21 understanding?

22 MS. MCCLURE: Objection to  
23 form.

24 THE WITNESS: Recordkeeping

1 requirements, security, those  
2 types of things.

3 BY MR. CLUFF:

4 Q. Anything else?

5 MS. MCCLURE: Objection to  
6 form.

7 THE WITNESS: Quotas.

8 BY MR. CLUFF:

9 Q. What's the quota -- what's  
10 the quota requirement?

11 MS. MCCLURE: Objection to  
12 form.

13 THE WITNESS: Headquarters  
14 makes that establishment.

15 BY MR. CLUFF:

16 Q. And does the quota, does  
17 that apply to distributors and  
18 manufacturers, just manufacturers, just  
19 distributors? Do you know?

20 A. Just manufacturers, I  
21 believe.

22 Q. So their manufacturing is  
23 subject to a quota, is that what you're  
24 telling me?



1                   A.       I think so.

2                   Q.       Just as a foundational  
3       issue, both manufacturers and  
4       distributors are registrants under the  
5       CSA, correct?

6                   A.       Correct.

7                   Q.       And when I use the term  
8       "CSA," I'm referring to the Controlled  
9       Substances Act.

10                               Do you understand that?

11                   A.       Yes.

12                   Q.       Okay. So I asked you what  
13       the -- what you understood to be the  
14       duties or obligations of a registrant  
15       under the CSRA.

16                               And I'm looking at your  
17       testimony here. And you said,  
18       recordkeeping requirements, security,  
19       those types of things. And then I asked  
20       if there was anything else, and you said  
21       quotas.

22                               So aside from those, do you  
23       know any other duties or responsibilities  
24       that a registrant has under the

1       Controlled Substances Act?

2                       MS. MCCLURE:   Objection to  
3                       form.

4                       THE WITNESS:   Well, right  
5                       under here it says, Effective  
6                       controls, 21 C.F.R. 1301.71.

7       BY MR. CLUFF:

8                       Q.       Okay.   So is that another  
9                       one of the duties that a registrant has  
10                      under the Controlled Substances Act?

11                      MS. MCCLURE:   Objection to  
12                      form.

13                      THE WITNESS:   Yes.

14       BY MR. CLUFF:

15                      Q.       I want to hand you a copy of  
16                      a printout of Section 823 of the  
17                      Controlled Substances Act that I obtained  
18                      from the DEA's website.

19                      We're going to mark it as  
20                      Exhibit-12.   I'm not trying to -- just so  
21                      you understand what we are going to do,  
22                      or what I want to do.   I don't want to  
23                      argue with you about what the duties are  
24                      or are not, I just want to understand the

1 scope of what is contained in the CSA and  
2 the scope -- and the federal regulations.

3 Does that make sense?

4 A. Yes.

5 MS. MCCLURE: Objection to  
6 form.

7 - - -

8 (Whereupon,  
9 AmerisourceBergen-Garcia  
10 Exhibit-12, United States Code -  
11 Section 823, was marked for  
12 identification.)

13 - - -

14 BY MR. CLUFF:

15 Q. So I'm going to ask you a  
16 question, or some questions about Section  
17 823, Subsections A and B.

18 Do you see that?

19 A. I see that.

20 Q. Why don't you read those two  
21 sections, and let me know when you've had  
22 a chance to digest them.

23 A. Okay.

24 Q. So at the top there, you can

1     see on the screen, it says, Section 823.  
2     There's those two little squiggly S  
3     circle with a hole in the middle, that's  
4     a section abbreviation that lawyers like  
5     to use. It says, Registration  
6     requirements next to it.

7                     And if you look at A and B,  
8     those headings are basically the same,  
9     except manufacturers and distributors are  
10    there, right?

11                    So it refers to  
12    manufacturers of controlled substances  
13    and distributors of controlled  
14    substances, correct?

15                    MS. MCCLURE: Objection to  
16                    form.

17                    THE WITNESS: I see that.

18    BY MR. CLUFF:

19                    Q.     Okay. And then looking at  
20    the first line of the paragraph, under A,  
21    it says, The Attorney General shall  
22    register an applicant to manufacture  
23    controlled substances.

24                    Do you see that?

1           A.       I see that.

2           Q.       And I'd like to compare that  
3       to the first line of the paragraph under  
4       B, it says, The Attorney General shall  
5       register an applicant to distribute a  
6       controlled substance in Schedule I or II.

7                    Do you see that?

8           A.       I see that.

9           Q.       Okay. And then I want you  
10      to look at Subparagraph 1, under A.

11                   It says, Maintenance of  
12      effective controls against diversion of  
13      particular controlled substances.

14                   Do you see that?

15          A.       I see that.

16          Q.       Okay. And then under B,  
17      Subparagraph 1, it says, Maintenance of  
18      effective controls against diversion of  
19      particular controlled substances.

20                   Do you see that?

21          A.       I see that.

22          Q.       Okay. So both manufacturers  
23      and distributors have, as a part of their  
24      registration requirement, this language

1 about maintaining effective controls  
2 against diversion.

3 Do you agree with that  
4 statement?

5 MS. MCCLURE: Mr. Cluff, to  
6 the extent you're asking this  
7 witness questions about what a  
8 statute says, I object, in light  
9 of the fact that this witness is  
10 not an expert, not an attorney.  
11 She's here in a fact witness  
12 capacity.

13 So if you're asking her to  
14 read what the document says, she's  
15 obviously capable of reading and  
16 can do that.

17 BY MR. CLUFF:

18 Q. Ms. Garcia, you worked at  
19 the DEA for two years, correct?

20 A. Correct.

21 Q. And before you took your  
22 job, or as part of accepting your job at  
23 the DEA, you attended a four-month  
24 training at Quantico, correct?

1 A. Correct.

2 Q. That's with the FBI, right?

3 MS. MCCLURE: Objection to  
4 form.

5 BY MR. CLUFF:

6 Q. I'm just trying to  
7 understand.

8 Is that right?

9 A. At the academy for DEA, yes.

10 Q. Okay. And while you were  
11 there, I'm going to use your words from  
12 your LinkedIn profile, we can pull it  
13 back up if you want to, but I'm just  
14 trying to understand your experience.

15 A. Go ahead.

16 Q. You said you developed a  
17 thorough knowledge of the Code of Federal  
18 Regulations.

19 And I'm just trying to  
20 understand your knowledge of the Code of  
21 Federal Regulations, okay?

22 So I've read to you two  
23 sections of 21 U.S.C. 823, which, as you  
24 and I have discussed, refers to

1 registration requirements.

2 All I'm asking you to say,  
3 and you can say it yes or no, and if you  
4 don't understand, that's fine, but does  
5 Subparagraph 1 for the manufacturers and  
6 Subparagraph 1 for the distributors  
7 contain identical language about  
8 effective control against diversion of  
9 particular controlled substances?

10 MS. MCCLURE: Standing  
11 objection to this line of  
12 questioning, to the extent any  
13 testimony is being elicited from  
14 the witness that is in -- or  
15 purporting to be or seeking  
16 testimony in an expert witness  
17 capacity. This witness --

18 MR. CLUFF: Shannon, this is  
19 a ridiculous objection. I didn't  
20 ask for her expert testimony. I  
21 asked her about her  
22 understanding --

23 MS. MCCLURE: I wasn't  
24 finished talking.



1 MR. CLUFF: -- of Code of  
2 Regulations -- I know, but I'm  
3 upset now. You've done -- look  
4 how long your objection is on the  
5 transcript. It's so long. And  
6 doesn't even make sense.

7 I asked her a foundational  
8 question about her knowledge of  
9 the Controlled Substances Act --

10 MS. MCCLURE: And again --

11 MR. CLUFF: -- and her  
12 knowledge of the Code of Federal  
13 Regulations. And I'm now asking  
14 her a question about her  
15 understanding of those rules and  
16 regulations, as a former DEA  
17 investigator, where she worked for  
18 two years, and claimed that she  
19 developed a thorough understanding  
20 of those rules and regulations.

21 I'm not calling for an  
22 expert opinion. I'm asking about  
23 her lay witness understanding of  
24 the rules and regulations that

1 she, as an auditor at the DEA,  
2 worked with.

3 Make your objection. But  
4 it's ridiculous.

5 MS. MCCLURE: Are you done?

6 MR. CLUFF: Yes.

7 MS. MCCLURE: I did not  
8 interrupt you intentionally.

9 MR. CLUFF: Thank you, I  
10 appreciate that.

11 MS. MCCLURE: And I would  
12 like to point out the fact that  
13 you are continually interrupting  
14 me. Therefore, in light of the  
15 fact that I let you make that  
16 speech, I'm now going to respond.  
17 And I would appreciate it if you  
18 did not continue to interrupt me.

19 This witness is here  
20 exclusively in a fact witness  
21 capacity. You have previously  
22 recognized, in the course of this  
23 deposition, the law enforcement  
24 privilege. You've previously

1           recognized the fact that while she  
2           is previously a DEA diversion  
3           investigator, she cannot, and I  
4           suspect that you would agree with  
5           this, cannot be giving expert  
6           testimony or testimony on behalf  
7           of the DEA.

8                     You have not given the DEA  
9           any Touhy notice for this  
10          deposition. I assume you are not  
11          attempting to violate Touhy by  
12          asking questions of this witness  
13          that would do that.

14                    She is here exclusively in a  
15          fact witness capacity. She is not  
16          an attorney and you cannot ask her  
17          to apply laws, rules, regulations  
18          to conduct of any distributor or  
19          AmerisourceBergen.

20                   MR. CLUFF: Is that the  
21          entirety of your objection?

22                   MS. MCCLURE: At this point,  
23          that is the entirety of my  
24          objection.

1                   And I would like to note  
2                   that I have a standing objection  
3                   to anything that you intend to ask  
4                   this witness about Garcia-12.

5                   And in light of the fact  
6                   that you object to the length of  
7                   my objections, I will simply note  
8                   after every question that you  
9                   asked, that all of my prior  
10                  objections that we've now stated  
11                  in the last two to three  
12                  minutes -- that I've stated in the  
13                  last two to three minutes on the  
14                  record, when I say "same  
15                  objection" to every line of  
16                  questioning that you have here,  
17                  that will incorporate that.

18                  Do we have that agreement?

19                  MR. CLUFF: Yes.

20                  I will note, just for the  
21                  record, that you were telling me  
22                  that she's not an attorney and I  
23                  cannot ask her to apply laws,  
24                  rules, regulations to conduct of

1 any distributor or  
2 AmerisourceBergen.

3 I do not intend to. So you  
4 can maintain your objection if you  
5 want to, but all I'm asking her is  
6 if she, as a former DEA  
7 investigator, who worked at the  
8 DEA for two years, can look at  
9 this statute that I've read to  
10 her, that I provided to her on a  
11 giant screen, and I've given her a  
12 copy of, whether Subparagraph 1 of  
13 823(a) reads that, The Attorney  
14 General shall register an  
15 applicant to manufacture a  
16 controlled substance. That's the  
17 first line of that paragraph.

18 BY MR. CLUFF:

19 Q. Do you see that under A?

20 A. I see that.

21 Q. And then in 1, it says,  
22 Maintenance of effective controls against  
23 diversion of a particular controlled  
24 substance.

1 Do you see that?

2 A. I see that.

3 Q. Based on your work at the  
4 DEA, did you develop an understanding  
5 that as part of a manufacturer's  
6 registration, they needed to maintain  
7 effective controls against diversion of  
8 particular controlled substances?

9 MS. MCCLURE: Standing  
10 objections.

11 THE WITNESS: Yes.

12 BY MR. CLUFF:

13 Q. Looking at 823(d), which is  
14 down there, it's highlighted on the  
15 screen in front of you.

16 The first line reads, The  
17 Attorney General shall register an  
18 applicant to distribute a controlled  
19 substance, Schedule I or II.

20 Do you see that?

21 A. I see that.

22 Q. And down in 1, it says,  
23 Maintenance of effective controls against  
24 diversion of particular controlled

1 substances into other-than-legitimate  
2 medical, scientific and industrial  
3 channels.

4 Do you see that?

5 A. I see that.

6 Q. In your two years working at  
7 the DEA, did you develop an understanding  
8 of whether distributors were required to  
9 maintain effective controls against  
10 diversion of particular controlled  
11 substances?

12 MS. MCCLURE: Standing  
13 objection.

14 THE WITNESS: Generally,  
15 yes.

16 BY MR. CLUFF:

17 Q. Okay. Based on your work at  
18 the DEA, did you develop an understanding  
19 that the duties of registrants, whether  
20 they be manufacturers or distributors,  
21 contained the same duty to maintain  
22 effective controls against diversion of  
23 particular controlled substances?

24 MS. MCCLURE: Same.

1 Standing.

2 THE WITNESS: Sorry.

3 Restate.

4 BY MR. CLUFF:

5 Q. Sure.

6 Based on your work at the  
7 DEA, did you develop an understanding  
8 that manufacturers and distributors both  
9 have a duty to maintain effective  
10 controls against diversion of particular  
11 controlled substances?

12 MS. MCCLURE: Standing  
13 objection.

14 THE WITNESS: A general  
15 understanding, yes.

16 BY MR. CLUFF:

17 Q. Yes. Okay. Thank you.

18 So looking back at  
19 Exhibit-5, which is the DEA PowerPoint,  
20 you noted that the slide on Page 162372  
21 references 21 C.F.R. 1301.71(A).

22 Do you see that?

23 A. Yes.

24 Q. I'd like to hand you a copy



1 of 1301.71(A).

2 MR. CLUFF: Shannon, Ms.

3 McClure, we can maintain the same  
4 agreement about this document if  
5 you would like to, as we have with  
6 Garcia-12. And we can maintain  
7 your standing objection.

8 MS. MCCLURE: Great.

9 Thanks.

10 - - -

11 (Whereupon,  
12 AmerisourceBergen-Garcia  
13 Exhibit-13, Part 1301 - Section  
14 1301.71; Security Requirements  
15 generally, was marked for  
16 identification.)

17 - - -

18 BY MR. CLUFF:

19 Q. I'd like to ask you some  
20 questions about 1301.71(A). That's the  
21 first subparagraph there.

22 Feel free to read that and  
23 let me know when you've had a chance to  
24 digest it.

1                   A.       You said A and B?

2                   Q.       No, just A.

3                               So you had a chance to look  
4   at A?

5                   A.       Yes.

6                   Q.       So let's look at 5, but keep  
7   13 next to it. So 5, it says, Effective  
8   controls.

9                               Do you see that?

10                              And then underneath, it  
11   says, 21 C.F.R., there's the section  
12   symbol, 1301.71(A), colon.

13                              Do you see that?

14                  A.       I see that on the slide.

15                  Q.       Yes, it's on the slide. And  
16   next to it on the slide, you have a star.

17                              Do you see that?

18                  A.       I see that.

19                  Q.       Do you recall why you put a  
20   star next to it?

21                  A.       I don't.

22                  Q.       Looking at it today, do you  
23   have any estimate on why you would have  
24   put a star next to it?

1 MS. MCCLURE: Objection to  
2 the form. Asked and answered.

3 THE WITNESS: No.

4 BY MR. CLUFF:

5 Q. Let's look at the text in  
6 the slide. It says, All applicants and  
7 registrants shall provide, underline,  
8 effective, underline, controls,  
9 underline, and, underline, procedures to  
10 guard against theft and diversion of  
11 controlled substances.

12 Did I get that accurately?

13 A. Yes.

14 Q. Now, looking at Garcia-13,  
15 which is I believe right by your right  
16 hand, Paragraph A.

17 Do you see the first line  
18 says, All applicants and registrants  
19 shall provide effective controls and  
20 procedures to guard against theft and  
21 diversion of controlled substances?

22 Do you see that?

23 A. I see that.

24 Q. So I'm just looking at the

1 slide and at the regulation.

2 It looks like the slide is a  
3 quote from the regulation, would you  
4 agree?

5 MS. MCCLURE: Objection to  
6 form. Standing.

7 THE WITNESS: Yes.

8 BY MR. CLUFF:

9 Q. Do you recall, attending  
10 this conference, what the DEA discussed  
11 in relation to 21 C.F.R. 1301.71(A)?

12 MS. MCCLURE: Objection to  
13 form. Asked and answered.

14 THE WITNESS: They just  
15 touched on it with everything  
16 else.

17 BY MR. CLUFF:

18 Q. When you worked at the DEA,  
19 did you form an understanding as to who  
20 issued registrations to manufacturers and  
21 distributors?

22 A. Yes.

23 Q. Based on your work at the  
24 DEA, again, without disclosing anything

1     that's protected by the law enforcement  
2     privilege, did you form an understanding  
3     of what the DEA looked at in order to  
4     determine whether a registrant -- or  
5     whether an entity should receive a  
6     registration?

7             A.     We looked at the security  
8     requirements and the building. And I  
9     don't remember anything else.

10            Q.     Why don't you turn the page  
11     for me?

12            A.     Which page?

13            Q.     The page in 5, the big  
14     PowerPoint presentation. The next page,  
15     the top slide says, Effective controls.  
16     Again, there's 21 C.F.R. 1301.71.

17                    I've been asking questions  
18     about your experience with these  
19     regulations during your time with the  
20     DEA.

21                    I just want to ask a  
22     foundational question. Did you develop  
23     any additional understanding of these  
24     regulations during your work as an

1 investigator for AmerisourceBergen? And  
2 you can answer that yes or no if you want  
3 to, because as I said, it's just a  
4 foundational question.

5 MS. MCCLURE: Objection to  
6 form.

7 THE WITNESS: No. I didn't  
8 reference the exact regulation  
9 regularly, no.

10 BY MR. CLUFF:

11 Q. Did you ever receive any  
12 training, when you were at  
13 AmerisourceBergen, on the rules and  
14 regulations that governed  
15 AmerisourceBergen's registration?

16 A. I don't recall.

17 Q. Okay. So, then, for now,  
18 we'll just limit it to your experience  
19 with these regulations from your work at  
20 the DEA.

21 A. Okay.

22 Q. Looking at the top slide on  
23 Exhibit-5, it says, Effective controls,  
24 21 C.F.R. 1301.71.

1 Do you see that?

2 A. 71(A), yes.

3 Q. And there it reads, In order  
4 to determine whether a registrant has  
5 provided effective controls against  
6 diversion, the administrator shall use  
7 the security requirements set forth in  
8 sections 1301.72 -- and I'll note that  
9 there are two section symbols, and I have  
10 referred to that as sections,  
11 1301.72-1301.76, as standards for the,  
12 underlined, physical security controls  
13 and, underline, and, begin underline,  
14 operating procedures and, underline,  
15 necessary to prevent diversion.

16 Do you see that?

17 A. I see that.

18 Q. So previously we've talked  
19 about a number of issues, and I heard you  
20 use the word, we would look at the  
21 security requirements.

22 Do you recall that idea?

23 A. Yes.

24 Q. So when you're talking about

1 the security requirements, is it the same  
2 security requirements that are identified  
3 on this slide?

4 A. I believe so, yes.

5 Q. So that's Sections 1301.72  
6 to 1301.76?

7 A. I believe that's where they  
8 are.

9 Q. Okay. Do you recall, when  
10 you were a diversion investigator, ever  
11 reviewing 1301 to 1301.76?

12 MS. MCCLURE: Objection to  
13 form.

14 MR. CLUFF: That was a bad  
15 question. Let me withdraw it.

16 BY MR. CLUFF:

17 Q. Do you recall, when you were  
18 a diversion investigator for the DEA,  
19 reviewing Sections 1301.71 to 1301.74?

20 A. Vaguely going to the  
21 business, yes.

22 Q. What do you mean "going to  
23 the business"?

24 A. So if they were applying for



1 a DEA license, looking at what controls  
2 they had in place.

3 Q. And when you say "what  
4 controls" in place, what kind of controls  
5 do you mean?

6 A. Security, physical security.

7 Q. And that would have been the  
8 security controls identified in 1301.71?

9 MS. MCCLURE: Objection to  
10 form.

11 THE WITNESS: 1301.72 to  
12 1301.76.

13 BY MR. CLUFF:

14 Q. And that's the -- that's the  
15 security controls identified in Section A  
16 of 1301.71, correct?

17 MS. MCCLURE: Objection to  
18 form.

19 THE WITNESS: I'd have to  
20 look at the regulation. I don't  
21 know.

22 BY MR. CLUFF:

23 Q. Okay. It's right there to  
24 your right.

1                   We previously looked at that  
2 first sentence that talks about, All  
3 applicants and registrants shall provide.

4                   Do you see that?

5           A.       I see that.

6           Q.       And the next sentence says,  
7 In order to determine whether a  
8 registrant -- registrant has provided  
9 effective controls against diversion, the  
10 administrator shall use the security  
11 requirements set forth in SEC  
12 S.1301.72-1301.76 as standards for the  
13 physical security controls and operating  
14 procedures necessary to prevent  
15 diversion.

16                   Do you see that?

17          A.       I see that.

18          Q.       So are those the security  
19 requirements you would have reviewed on  
20 the way to evaluate a potential  
21 registrant's registration?

22          A.       Do you have a copy of  
23 1301.72 and 76?

24          Q.       I have a copy of 1302.74,

1       which is one of the ones in there.

2                       I can hand that to you, if  
3       you'd like it.

4               A.       If you can, that would be  
5       great.

6               Q.       Sure.

7                       -   -   -

8                       (Whereupon,  
9               AmerisourceBergen-Garcia  
10              Exhibit-14, Part 1301 - Section  
11              1301.74; Other Security Controls  
12              for Non-practitioners, was marked  
13              for identification.)

14                      -   -   -

15       BY MR. CLUFF:

16               Q.       For the record, I'm marking  
17       as Exhibit-14 a copy of 21 C.F.R. 1301.74  
18       that was obtained from the DEA diversion  
19       website.

20                      So, Liz, I just want to give  
21       you a foundational question to set up  
22       some further questions, and then I'll  
23       give you a chance to look at this.

24                      So in 1301.71, it identified

1 security requirements -- or you  
2 identified security requirements as  
3 1301.72 to 1301.76.

4 And this is 1301.74, which  
5 would have been one of the security  
6 requirements, correct?

7 A. That's what it appears to be  
8 here.

9 Q. Okay. So I just want to ask  
10 you some questions about Sections A and  
11 B. So you can go ahead and look at  
12 those.

13 A. On which exhibit? I'm  
14 sorry.

15 Q. 14, which is 1301.74.

16 A. Okay. A and B?

17 Q. Yep.

18 MS. MCCLURE: We've been  
19 going for an hour and-a-half.

20 MR. CLUFF: I was going to  
21 say, just a few more questions,  
22 and then I would love for us all  
23 to take a break.

24 THE WITNESS: My eyes are

1           getting cross-eyed. Can we take a  
2           break, please?

3                   MR. CLUFF: Sure. We can  
4           take a break.

5                   THE WITNESS: Thank you.

6                   VIDEO TECHNICIAN: Off the  
7           record at 4:19 p.m.

8                           -   -   -

9                           (Whereupon, a brief recess  
10          was taken.)

11                           -   -   -

12                   VIDEO TECHNICIAN: We're  
13          back on the record at 4:38 p.m.

14   BY MR. CLUFF:

15               Q.     Ms. Garcia, we're back on  
16          the record. You're still under oath.

17                   Let's take 12, 13 and 14 and  
18          put them to the side. We'll take  
19          Exhibit-5 and put that to the side. And  
20          let's forget they ever existed.

21                   I have some quick questions  
22          about some interactions that  
23          AmerisourceBergen had with Walgreens.  
24          And I've got some e-mails that we can go

1 through to kind of just touch on it  
2 pretty quickly. I'll do my best to get  
3 to the point as quickly as possible and  
4 ask the cleanest questions I can.

5 MR. CLUFF: Is there an  
6 attorney for Walgreens here? Is  
7 there an attorney for Walgreens on  
8 the phone?

9 I have a document here in my  
10 list of exhibits that is  
11 WAGMDL00038287, it's written by  
12 Kimberly St. John from  
13 AmerisourceBergen, recipients  
14 include a number of individuals.  
15 Ms. Garcia is the second person on  
16 the list. Under the CMO, because  
17 Ms. Garcia would have received the  
18 e-mail, she can view it, even  
19 though it's marked confidential.

20 Is there an attorney for  
21 Walgreens on the phone or in  
22 person?

23 BY MR. CLUFF:

24 Q. Before I show you this, Liz,

1 I want to talk to you a bit.

2 You previously identified a  
3 term, you said the Walgreens integrity  
4 team.

5 Do you know who that was?

6 MS. MCCLURE: Objection to  
7 form.

8 BY MR. CLUFF:

9 Q. Let he me back up.  
10 Can you describe what the  
11 Walgreens integrity team was to me?

12 A. They are our counterparts at  
13 Walgreens.

14 Q. Do you recall receiving  
15 correspondence from the Walgreens  
16 integrity team?

17 A. Yes.

18 Q. Was that a part of your job  
19 at AmerisourceBergen, was to communicate  
20 with the Walgreens integrity team?

21 A. Yes.

22 Q. Did you do so by phone?

23 A. Yes.

24 Q. And by e-mail?

1 A. Yes.

2 Q. Do you recall having  
3 telephonic meetings with the Walgreens  
4 integrity team?

5 A. Yes, on occasion.

6 Q. Are you aware, in your work  
7 at AmerisourceBergen, about any issues  
8 with hydrocodone being rescheduled at  
9 all?

10 A. I don't recall.

11 Q. Are you aware if hydrocodone  
12 was rescheduled from Schedule II to  
13 Schedule III?

14 MS. MCCLURE: Objection to  
15 form.

16 THE WITNESS: I believe  
17 hydrocodone was rescheduled from  
18 III to II.

19 BY MR. CLUFF:

20 Q. Okay. Oh, I said it  
21 backwards, didn't I? I said II to III.

22 Do you recall, during 2014,  
23 having any meetings with the Walgreens  
24 integrity team regarding the rescheduling



1 of hydrocodone?

2 A. I don't recall.

3 Q. Is that something that you  
4 would have discussed with Walgreens  
5 during your time period there?

6 MS. MCCLURE: Objection to  
7 form. Speculation.

8 THE WITNESS: We may have.

9 BY MR. CLUFF:

10 Q. If -- you were responsible  
11 for working with the chain pharmacies at  
12 AmerisourceBergen, correct?

13 MS. MCCLURE: Objection to  
14 form.

15 THE WITNESS: Correct.

16 BY MR. CLUFF:

17 Q. So that was part of the  
18 scope of your job responsibilities?

19 A. Part.

20 Q. If there was a meeting with  
21 the Walgreens integrity team about the  
22 hydrocodone rescheduling, would you  
23 generally have been included in such a  
24 meeting?

1 MS. MCCLURE: Objection to  
2 form.

3 THE WITNESS: If there was  
4 such a meeting.

5 MR. CLUFF: I believe I've  
6 laid a sufficient foundation to  
7 establish that Ms. Garcia would  
8 have received this document and  
9 would have participated in the  
10 meeting that it describes. So I'm  
11 going to use this document.

12 Shannon, I understand that  
13 you may want to interpose an  
14 objection. Go ahead and state  
15 that for the record, but I'm going  
16 to move forward.

17 MS. MCCLURE: Can I see the  
18 document?

19 MR. CLUFF: Sure. I'm going  
20 to give this to your counsel  
21 first, before I give it to you,  
22 okay?

23 MS. MCCLURE: Yep. Okay.

24 MR. CLUFF: Okay. Here is

1                   your copy.

2                   MS. MCCLURE: For the  
3                   record, Ms. Garcia is included as  
4                   a recipient to the e-mail dated  
5                   9/2/2014. The e-mail originated  
6                   with an AmerisourceBergen e-mail  
7                   address and went to a number of  
8                   AmerisourceBergen and Walgreens  
9                   personnel. And the Bates label is  
10                  WAGMDL00038287.

11 BY MR. CLUFF:

12                 Q. Ms. Garcia, this is a really  
13                 simple document. Let's just first  
14                 establish, as your counsel helped us  
15                 here, who it's from and how you may have  
16                 received it.

17                         Do you see up at the top  
18                 left-hand corner there's a line that  
19                 says, Appointment? It's above the black  
20                 line on the first page.

21                 A. I see that.

22                 Q. And it says, From Kimberly  
23                 St. John.

24                         I believe that you

1 previously identified her as somebody  
2 that you worked with, correct?

3 A. Yes.

4 Q. Who was she again?

5 A. She was our coordinator.

6 Q. Would she have regularly  
7 coordinated meetings on behalf of  
8 AmerisourceBergen?

9 A. I think so.

10 Q. Okay. Looking at the "to"  
11 line, it looks like she sent to herself  
12 and then you're listed as the second  
13 recipient, Garcia, Elizabeth, right?

14 A. Yes.

15 Q. And if we go down the line  
16 of recipients, there are some additional  
17 AmerisourceBergen employees.

18 Do you see that?

19 A. I see that, yes.

20 Q. And it looks like midway  
21 down that list, it starts with, M. Hayes,  
22 and if you go in, the next addressee is  
23 Jeff.Price@Walgreens.com?

24 Do you recognize that name?

1 A. Sorry, where are you?

2 Q. Right there on the screen.

3 He highlighted just Jeff.Price.

4 A. I don't remember.

5 Q. How about Odell Morgan; do

6 you recognize Odell Morgan?

7 A. I don't recall.

8 Q. How about Natasha Polster?

9 A. Natasha was part of the  
10 integrity team.

11 Q. Eric Stahmann?

12 A. Integrity team.

13 Q. Patricia Daugherty?

14 A. Integrity.

15 Q. Christopher Dymon?

16 A. Integrity.

17 Q. So, generally, looking at

18 the list of Walgreens recipients, it

19 seems like this appointment was sent to

20 the Walgreens integrity team, correct?

21 A. Yes, correct.

22 Q. If you look at the subject

23 down there, it says, Hydrocodone

24 rescheduling.

1                   A.       Okay.

2                   Q.       And it looks like there's a  
3       location. It says, Dial-in,  
4       1-800-315-5963.

5                             Do you see that?

6                   A.       I see that.

7                   Q.       Does that refresh your  
8       recollection that maybe this e-mail is  
9       about a meeting with the Walgreens  
10      integrity team about the hydrocodone  
11      rescheduling?

12                  A.       That is what it appears to  
13      be.

14                  Q.       Do you see in the attachment  
15      column, or row, there it says, ABC HC  
16      C2.doc?

17                  A.       I see that.

18                  Q.       Do you have any idea what  
19      the abbreviation "ABC" stands for?

20                  A.       AmerisourceBergen.

21                  Q.       Okay. How about HC, what  
22      does that stand for?

23                  A.       I don't know what that would  
24      be.

1 Q. Could it be hydrocodone?

2 MS. MCCLURE: Objection to  
3 form.

4 BY MR. CLUFF:

5 Q. If you know.

6 A. I guess it could be.

7 Q. How about C-II, what does  
8 that stand for?

9 A. That could be Schedule II.

10 Q. Okay. Let's turn to the  
11 next page.

12 The next page is Bates  
13 marked WAGMDL00038288. This would have  
14 been the attachment to the parent e-mail.

15 It looks like there's a  
16 blank in the "to" line.

17 Do you see that?

18 A. Yes.

19 Q. But it's from Tahsa Polster  
20 and Denman Murray.

21 Are those members of the  
22 Walgreens integrity team?

23 A. Yes. Denman was, I think,  
24 the IT guy on the integrity team.

1           Q.     But he was part of the  
2 integrity team?

3           A.     I think so.

4           Q.     And then the date is  
5 September 3, 2014?

6           A.     Yes.

7           Q.     All right. The subject line  
8 is, ABC/WAG hydrocodone schedule change  
9 plan.

10                   Do you see that?

11           A.     I see that.

12           Q.     Looking at this document and  
13 the subject line, do you have any  
14 understanding about what this document  
15 was about?

16           A.     Let me review.

17                   Okay.

18           Q.     So having reviewed this  
19 page, did you form an understanding of  
20 what this document -- or this meeting was  
21 about?

22           A.     This may be about the two  
23 systems being able to talk to each other.

24           Q.     Previously, I think we



1       talked about syncing the ABC and  
2       Walgreens integrity team systems.

3                       Is that --

4                       MS. MCCLURE:  Objection to  
5                       form.

6       BY MR. CLUFF:

7                       Q.       Is that what you're  
8       referring to here?

9                       A.       The pharmacy ordering system  
10       and our SAP system.

11                      Q.       Okay.  So let's go down the  
12       list and see.

13                      Do you see that there are  
14       these bold underlines, I'd refer to them  
15       as headings?

16                      Do you see that?

17                      A.       I see that.

18                      Q.       Do you understand that these  
19       would have been discussion points during  
20       the meeting between ABC and the Walgreens  
21       integrity team?

22                      MS. MCCLURE:  Objection to  
23                      form.

24                      THE WITNESS:  That's my

1 understanding.

2 BY MR. CLUFF:

3 Q. The first one is, Hydro  
4 inventory availability.

5 Do you see that?

6 A. I see that.

7 Q. And then the next bullet  
8 point underneath it is, Allocations.

9 Do you know what an  
10 allocation refers to?

11 A. Allocations are from the  
12 manufacturing side. I don't recall.

13 Q. The next bullet point says,  
14 MFG supply-interruptions, C-II yearly  
15 allotment. There appears to be Roman  
16 Numeral II next to the C.

17 Do you understand what that  
18 is?

19 A. I think that might be in  
20 regards to allocations.

21 Q. Were there concerns about  
22 interruptions of supply from the  
23 manufacturers in 2014?

24 A. I don't recall.

1           Q.     Under the heading,  
2     Distribution, the second bullet point  
3     says, Moving ordering daily to weekly.

4                     Do you understand what that  
5     was about?

6           A.     I think that was syncing the  
7     two systems electronically, or  
8     technologically.

9           Q.     Prior to this, was Walgreens  
10    ordering on a daily basis as opposed to a  
11    weekly basis?

12          A.     I don't know what they were  
13    doing on their end.

14          Q.     Under the heading, OMP, the  
15    first bullet point, again, Moving  
16    ordering daily to weekly.

17                     So that was -- was that  
18    discussed twice?

19                     MS. MCCLURE:  Objection to  
20    form.

21                     THE WITNESS:  I don't know.  
22                     It may have been, I don't know.

23    BY MR. CLUFF:

24          Q.     The last bullet point under

1 OMP is listed as, Is using family class  
2 going to work for hydro?

3 Do you recall why that was a  
4 question?

5 A. I don't recall.

6 Q. At the bottom it says, bold  
7 underline, Threshold limits.

8 Do you see that?

9 A. I see that.

10 Q. So would that indicate that  
11 there was a conversation between  
12 AmerisourceBergen and the Walgreens  
13 integrity team about threshold limits?

14 MS. MCCLURE: Objection to  
15 form.

16 THE WITNESS: Threshold  
17 limits may be as part of the  
18 algorithm. I don't know.

19 BY MR. CLUFF:

20 Q. So you would have discussed  
21 threshold limits as part of the algorithm  
22 system with the Walgreens integrity team?

23 A. I don't recall.

24 Q. The next bullet point down

1       says, Will OMP limits change.

2                       Do you see that?

3               A.       I see that.

4               Q.       Do you recall if there was  
5       any discussion with the Walgreens  
6       integrity team about changing OMP limits?

7               A.       I don't recall.

8               Q.       Okay. We can set that  
9       aside.

10                       -   -   -

11                       (Whereupon,  
12       AmerisourceBergen-Garcia  
13       Exhibit-15, WAGMDL00038287-288,  
14       was marked for identification.)

15                       -   -   -

16                       (Whereupon,  
17       AmerisourceBergen-Garcia  
18       Exhibit-16, ABDCMDL00296155-180,  
19       was marked for identification.)

20                       -   -   -

21       BY MR. CLUFF:

22               Q.       I'd like to hand you a copy  
23       of a document that is an e-mail with an  
24       attachment. I will tell you, I do not

1 plan to ask you any questions about the  
2 attachment, because it's large.

3 But I would like to discuss  
4 the e-mail with you, which is one page.  
5 So the document is Bates stamped  
6 ABDCMDL00296155 is the cover e-mail. The  
7 attachment begins with ABDCMDL00296156.

8 Go ahead and familiarize  
9 yourself with that first page, which is  
10 the e-mail. If you'd like to look at the  
11 attachment, you may, but, again, I'm not  
12 going to ask you any questions about it.

13 A. Okay.

14 Q. Down at the bottom of this  
15 first page, you'll see in the "from"  
16 line, it says, Zimmerman, Chris.

17 Do you know who that is?

18 A. Chris is the compliance  
19 officer.

20 Q. And --

21 A. Chief compliance officer.

22 Q. I'm sorry, you said the  
23 chief compliance officer? Okay.

24 Did you work with him on any

1 kind of a regular basis at  
2 AmerisourceBergen?

3 MS. MCCLURE: Objection to  
4 form.

5 THE WITNESS: Not on a  
6 regular basis, no.

7 BY MR. CLUFF:

8 Q. You see the subject line --  
9 or excuse me, the "to" line includes May,  
10 David; Hazewski, Edward; and Sharon  
11 Hartman.

12 Do you see that?

13 A. I see that.

14 Q. Do you know -- you worked  
15 with them at AmerisourceBergen, correct?

16 A. Correct.

17 Q. I believe, at the time, you  
18 stated that Ed Hazewski would have been  
19 your direct supervisor?

20 A. March 2014. He may have  
21 been.

22 Q. At this time, was Sharon  
23 Hartman also one of your supervisors?

24 A. No.

1                   Q.     The "cc" line that says,  
2     Mays, Steve.

3                             Do you know who Steve Mays  
4     is?

5                   A.     Steve Mays is the senior  
6     director of regulatory affairs. I don't  
7     remember.

8                   Q.     Did you report to him at  
9     all?

10                  A.     No.

11                  Q.     Did you report to him at all  
12     in 2014?

13                  A.     No.

14                  Q.     Okay. In the text of the  
15     e-mail from Chris to that group it says,  
16     I met with David Neu.

17                             I want to stop there and ask  
18     if you know who David Neu is?

19                  A.     David Neu was on the  
20     executive lead team for ABC. I don't  
21     remember his title.

22                  Q.     Do you recall if he had any  
23     specific focus area or specialty in his  
24     work with AmerisourceBergen?



1 MS. MCCLURE: Objection to  
2 form.

3 THE WITNESS: I don't know.  
4 I never worked with him.

5 BY MR. CLUFF:

6 Q. It says, I met with David  
7 Neu this morning and he wanted me to send  
8 him an e-mail, a out -- it's probably a  
9 typo for about, right?

10 A. Uh-huh.

11 MS. MCCLURE: Object to  
12 form.

13 BY MR. CLUFF:

14 Q. I'm just asking, do you  
15 think a, space, out is a typo for about?

16 MS. MCCLURE: Same.

17 THE WITNESS: Probably.

18 BY MR. CLUFF:

19 Q. Okay. So, I met with David  
20 Neu this morning and he wanted me to send  
21 him an e-mail about our order monitoring  
22 program with respect to WAG.

23 Does "WAG" there stand for  
24 Walgreens?

1                   A.       Yes.

2                   Q.       Okay. He continues and  
3       says, WAG execs are concerned with DEA  
4       and want our perspective on their program  
5       and the environment going forward.

6                               In that sentence does "WAG"  
7       again refer to Walgreens?

8                   A.       Walgreens, yes.

9                   Q.       Skipping down, Chris says,  
10      Ed, can you outline our approach to WAG  
11      and the WAG people you deal with. How  
12      often and when you meet, and anything  
13      else I should relay to Dave, or  
14      suggestions of any improvements.

15                               Do you see that?

16                   A.       I see that.

17                   Q.       Okay. And bumping up to the  
18      top -- or, excuse me, one e-mail up, Ed  
19      Hazewski forwards you that e-mail and  
20      includes Marcelino Guerreiro.

21                               Do you see that?

22                   A.       I see that.

23                   Q.       It says, Read below and  
24      let's discuss. Would like to provide

1     some data but want to keep it basic and  
2     easily understood. Let me know your  
3     availability for a call.

4                     Do you see that?

5             A.     I see that.

6             Q.     Do you recall discussing  
7     Chris Zimmerman's e-mail with Mr.  
8     Hazewski?

9             A.     No, not at all.

10            Q.     Do you have any  
11    understanding, reading this e-mail here  
12    today, about why Chris -- or Mr.  
13    Zimmerman wanted to give David Neu this  
14    information?

15            A.     I don't know why.

16            Q.     Did you -- do you recall  
17    asking Mr. Hazewski why this project was  
18    going on?

19            A.     No.

20            Q.     Looking at your e-mail at  
21    the top -- and you send it to Ed Hazewski  
22    and Marcelino Guerreiro.

23                     Do you see that?

24            A.     I see that.

1                   Q.       Subject line is, Re, WAG  
2    DEA.

3                               "WAG" there, again, refers  
4    to Walgreens?

5                   A.       Yes.

6                   Q.       Does DEA refer to the Drug  
7    Enforcement Administration?

8                   A.       Yes.

9                   Q.       Okay. And the attachments  
10   are Ron Buzzeo\_FDLI\_current\_February  
11   2014-MC\_SOM.

12                               Do you see that?

13                   A.       I see that.

14                   Q.       Reading that, do you have  
15   any idea what that document was, or  
16   recollection?

17                   A.       I have no recollection.

18                   Q.       Looking at your e-mail to Ed  
19   you say, I've attached a PowerPoint  
20   presentation -- abbreviated as PPT -- I  
21   found from Buzzeo dated Feb. 2014  
22   regarding SOM.

23                               Do you see that?

24                   A.       I see that.

1 Q. Does that refresh your  
2 recollection on what that attachment  
3 might be?

4 A. No.

5 Q. Do you have any idea who  
6 Buzzeo is, or what Buzzeo is?

7 A. I don't remember exactly  
8 what that is, no.

9 Q. You say, Note Slide Number  
10 13, suspicious order monitoring  
11 program-five key elements as a starting  
12 point to evaluate WAG's program.

13 Does "WAG" still refer to  
14 Walgreens there?

15 A. Yes.

16 Q. Does this refresh your  
17 recollection that you were being asked to  
18 evaluate Walgreens' program at the time?

19 MS. MCCLURE: Objection.

20 Form.

21 THE WITNESS: That's what it  
22 appears to be.

23 BY MR. CLUFF:

24 Q. Okay. Do you know if

1 AmerisourceBergen was being asked to  
2 evaluate Walgreens' program by Walgreens?

3 MS. MCCLURE: Object to  
4 form.

5 THE WITNESS: Sorry,  
6 clarify.

7 BY MR. CLUFF:

8 Q. Sure.

9 Do you know if Walgreens  
10 asked AmerisourceBergen to do this  
11 evaluation?

12 A. I don't recall.

13 Q. Do you have any recollection  
14 about whether AmerisourceBergen  
15 voluntarily decided to evaluate  
16 Walgreens' program?

17 MS. MCCLURE: Objection to  
18 form.

19 THE WITNESS: I don't  
20 recall.

21 BY MR. CLUFF:

22 Q. You say, For example, they  
23 have submitted to us the information for  
24 the 590; however, do they have a separate

1 questionnaire that they use to conduct  
2 routine due diligence on their stores or  
3 when they are acquiring new businesses?

4 Did you ever get answers to  
5 those questions?

6 A. I think they had a separate  
7 questionnaire, but it was a confidential  
8 document that nobody saw, from what I  
9 recall.

10 Q. When you say "nobody saw"  
11 it, do you mean AmerisourceBergen never  
12 saw it as well?

13 A. They may not have. I don't  
14 remember.

15 Q. And then the next sentence  
16 is, Process to clear orders besides  
17 looking at item number and quantity.

18 Did you get an answer to  
19 that question?

20 A. I don't remember.

21 Q. Okay. I sort of  
22 overpromised and said I would not ask you  
23 questions about the slides, but why don't  
24 we look at Number 13, which is the slide

1     you reference in your e-mail.

2                     If you flip back in the  
3     document, that slide ends at 296168.

4             A.     Okay.

5             Q.     Just starting at the top  
6     there, the heading is, Suspicious Order  
7     Monitoring-Five Key Elements.

8                     Do you see that?

9             A.     I see that.

10            Q.     Do you have any  
11     recollection, reviewing this slide, what  
12     this was about?

13            A.     I don't recall this. But  
14     it's related to this top e-mail here.

15            Q.     Okay. Looking down at the  
16     five key elements, do you see the first  
17     one is, A defensible SOM model?

18            A.     I see that.

19            Q.     Do you understand "SOM" to  
20     stand for suspicious order monitoring?

21            A.     Yes.

22            Q.     Okay. So would that be one  
23     key element of a suspicious order  
24     monitoring program?



1 MS. MCCLURE: Objection to  
2 form.

3 THE WITNESS: Identifies  
4 orders -- that's the definition of  
5 a suspicious order.

6 BY MR. CLUFF:

7 Q. Okay. The next one down is,  
8 Appropriate due diligence and Know Your  
9 Customer activities.

10 Would you agree that's an  
11 element of a suspicious order monitoring  
12 program, or a key element of it?

13 MS. MCCLURE: Objection to  
14 form.

15 THE WITNESS: That's an  
16 element of due diligence and Know  
17 Your Customer.

18 BY MR. CLUFF:

19 Q. How about, Appropriate  
20 review and/or investigations of pended  
21 orders, would you agree that's a key  
22 element of a suspicious order monitoring  
23 program?

24 MS. MCCLURE: Objection to

1 form.

2 THE WITNESS: Pended orders  
3 would be orders of interest if  
4 they hit the algorithm.

5 BY MR. CLUFF:

6 Q. So appropriate review and/or  
7 investigations of pended orders would be  
8 a key element of a suspicious order  
9 monitoring program?

10 MS. MCCLURE: Objection to  
11 form.

12 THE WITNESS: We don't know  
13 until we actually look at it.

14 BY MR. CLUFF:

15 Q. Okay. But you have to  
16 review them, if they hit parameters,  
17 right, to determine whether or not  
18 they're suspicious?

19 A. If they're potentially  
20 suspicious.

21 MS. MCCLURE: Same.

22 BY MR. CLUFF:

23 Q. At the bottom -- excuse me,  
24 the next one down, says, Clear,

1 comprehensive SOM SOPs.

2 And we previously discussed  
3 that "SOM" stands for suspicious order  
4 monitoring, right?

5 A. Correct.

6 Q. Do you understand if "SOP"  
7 stands for standard operating procedures?

8 A. I believe so, yes.

9 Q. So would you agree that  
10 clear, comprehensive standard operating  
11 procedures are a key element of the  
12 suspicious order monitoring program?

13 MS. MCCLURE: Objection to  
14 form.

15 THE WITNESS: It could be a  
16 training document.

17 BY MR. CLUFF:

18 Q. But having clear,  
19 comprehensive training documents is a  
20 part of -- is a key element of a  
21 suspicious order monitoring program,  
22 correct?

23 MS. MCCLURE: Objection to  
24 form.

1 THE WITNESS: Yes, I guess.

2 BY MR. CLUFF:

3 Q. Okay. Now I'm done with  
4 that document.

5 MR. CLUFF: Is there a Teva  
6 lawyer here? Teva? Teva?

7 BY MR. CLUFF:

8 Q. Previously, we were  
9 discussing Walgreens and the sharing of  
10 information regarding thresholds.

11 Do you recall that?

12 A. I recall that.

13 Q. I don't want to rehash that  
14 conversation, I promise.

15 But one of the things that  
16 got us on to that conversation is I asked  
17 you if AmerisourceBergen ever created  
18 exceptions for Walgreens.

19 Do you recall that?

20 A. Yes.

21 Q. I'd like to hand you a copy  
22 of Exhibit-17.

23 - - -

24 (Whereupon,

1 AmerisourceBergen-Garcia  
2 Exhibit-17, ABDCMDL00151721-726,  
3 was marked for identification.)

4 - - -

5 BY MR. CLUFF:

6 Q. It's an e-mail chain dated  
7 -- ABDCMDL00151721.

8 Please feel free to  
9 familiarize yourself with it. It looks  
10 like there's also an attachment, which  
11 would have been a second e-mail.

12 MS. MCCLURE: Is that  
13 attachment part of this?

14 MR. CLUFF: I do not believe  
15 it is part of this.

16 BY MR. CLUFF:

17 Q. So I don't have you wasting  
18 your time reading a whole long document  
19 that I'm not going to ask you questions  
20 about.

21 I'm looking at the second  
22 page, there's an e-mail from Degnan,  
23 Nancy, to Eric Cherveney. And then  
24 there's a response from Eric Cherveney to

1     that e-mail. And my questions are about  
2     those two.

3                     You can feel free to read  
4     the entire thing if you want to, but you  
5     let me know when you're ready.

6             A.     Okay.

7             Q.     So in that e-mail on Page  
8     151722, Nancy Degnan -- do you know who  
9     that is?

10            A.     I don't know who that is.

11            Q.     If you look down at the  
12     bottom of her e-mail, it identifies her  
13     as a knowledge developer. And there are  
14     two Roman Numerals next to it.

15                     Do you see that?

16            A.     I see that.

17            Q.     Does that refresh your  
18     recollection about who she is?

19            A.     I have no idea who she is.

20            Q.     Okay. She asks, Hi, Eric.  
21     I reached out to the service delivery  
22     team (Sara Dalyan and Kate Harper) to  
23     determine if Kaiser will also be an  
24     exception in the OMP process currently

1 published. I wanted to identify any  
2 other differences to the existing process  
3 before updating the article.

4 Do you see that?

5 A. I see that.

6 Q. And then if you turn to the  
7 first page of this chain, Eric Cherveny  
8 responds to her at the very bottom.

9 Do you see that?

10 A. I see that.

11 Q. You see you're copied on  
12 that e-mail in the "cc" line?

13 A. Yes.

14 Q. And he writes, Nancy,  
15 Walgreens is the only exception to the  
16 customer review form. All other  
17 customers and chains will submit the  
18 consumption review as per current policy.

19 Do you see that?

20 A. I see that.

21 Q. Does this refresh your  
22 recollection that AmerisourceBergen  
23 created exceptions to its policies and  
24 procedures for Walgreens?

1 MS. MCCLURE: Objection to  
2 form.

3 THE WITNESS: We didn't  
4 create policy and procedure  
5 exceptions. The Walgreens  
6 integrity team, I believe, wanted  
7 to receive threshold reviews  
8 directly and not for individual  
9 stores -- or from individual  
10 stores.

11 BY MR. CLUFF:

12 Q. Just to be clear, it says,  
13 Walgreens is the only exception to the  
14 consumption review form. All other  
15 customers and chains will submit the  
16 consumption review as per current policy.

17 So was there a current  
18 policy in place regarding consumption  
19 reviews in 2015?

20 A. I believe so.

21 Q. Okay. And then Walgreens  
22 was an exception to that rule, correct?

23 MS. MCCLURE: Objection to  
24 the form. Asked and answered.



1 THE WITNESS: They were not  
2 an exception to the rule. It was  
3 how and who those consumption  
4 reviews would be submitted to.

5 BY MR. CLUFF:

6 Q. But how and to whom those  
7 consumption reviews would be submitted  
8 was an exception to the policy, correct?

9 MS. MCCLURE: Objection to  
10 the form. Asked and answered.

11 THE WITNESS: No. The  
12 consumption review form was to go  
13 through the WAG integrity team;  
14 whereas with other customers and  
15 other chains, it could be  
16 submitted directly to our system.

17 BY MR. CLUFF:

18 Q. So let me just understand.  
19 There was a policy in place  
20 in 2015, correct?

21 A. I think so.

22 Q. Okay. And you said, with  
23 other customers and other chains, a  
24 consumption review form -- you used the

1 word "it," but I believe you meant  
2 consumption review form -- could be  
3 submitted directly to our system.

4 Did I get that right?

5 MS. MCCLURE: Objection.

6 Asked and answered.

7 THE WITNESS: Correct.

8 BY MR. CLUFF:

9 Q. Okay. And was that the  
10 policy?

11 MS. MCCLURE: Objection.

12 Asked and answered.

13 THE WITNESS: I don't know  
14 if that was in written format.

15 BY MR. CLUFF:

16 Q. Was that the general  
17 procedure that you understood to be the  
18 way it worked?

19 MS. MCCLURE: Objection.

20 Form.

21 THE WITNESS: I believe so.

22 MS. MCCLURE: Asked and  
23 answered.

24 BY MR. CLUFF:

1           Q.       Just give the answer a  
2       second so Shannon can get her objection  
3       in.   Thanks.

4                    Okay.   So Walgreens didn't  
5       go through that same procedure, did they?

6                    MS. MCCLURE:   Objection.

7                    Asked and answered.   Form.

8                    THE WITNESS:   They -- the  
9       individual stores from Walgreens  
10      would submit a consumption review  
11      form to the WAG integrity team,  
12      and then the WAG integrity team  
13      would go to the system.

14   BY MR. CLUFF:

15           Q.       What's "the system" you're  
16      referring to?

17           A.       Our -- I think it was  
18      Salesforce where the consumption reviews  
19      are kept.

20           Q.       So that's a different  
21      process than a regular customer would go  
22      through, correct?

23                    MS. MCCLURE:   Objection to  
24      form.   Asked and answered.

1 THE WITNESS: Because  
2 Walgreens has the integrity team,  
3 they wanted to go through the  
4 integrity team.

5 BY MR. CLUFF:

6 Q. So because Walgreens had an  
7 integrity team, AmerisourceBergen gave  
8 them a different process than other  
9 customers, is that what you're saying?

10 MS. MCCLURE: Objection.  
11 Asked and answered numerous times.  
12 You're becoming argumentative.

13 THE WITNESS: Sorry,  
14 restate.

15 BY MR. CLUFF:

16 Q. Sure.  
17 Because Walgreens had an  
18 integrity team, AmerisourceBergen gave  
19 them a different process than other  
20 customers for submitting consumption  
21 reviews?

22 MS. MCCLURE: Same  
23 objection.

24 THE WITNESS: No. Walgreens

1           insisted that they wanted to have  
2           visibility to those consumption  
3           reviews and that they would submit  
4           those to the system like everyone  
5           else.

6       BY MR. CLUFF:

7           Q.     And then however you want to  
8           qualify that process, Eric Cherveny  
9           writes and says, Walgreens is the only  
10          exception to the consumption review form.

11                 Do you see that?

12          A.     I see that.

13          Q.     Okay. Let's move on.

14                 MR. CLUFF: Is counsel for  
15          Teva on the phone or present in  
16          the room?

17       BY MR. CLUFF:

18                 Q.     Ms. Garcia, do you recall  
19          working with a man named Joseph  
20          Tomkowitz?

21          A.     Yes.

22                 Q.     Do you recall working with  
23          Ed Hazewski?

24          A.     Yes.

1 Q. Are you aware that Joseph  
2 Tomkowitz left AmerisourceBergen and went  
3 to Teva?

4 A. Yes.

5 Q. Did you communicate or  
6 correspond with Mr. Tomkowitz after he  
7 left AmerisourceBergen?

8 A. On occasion.

9 Q. Do you recall communicating  
10 with him about past Walgreens hospital  
11 locations?

12 A. I don't recall that.

13 Q. Do you recall any  
14 investigation that you conducted, during  
15 your time at AmerisourceBergen, about a  
16 location for Walgreens in Beth Israel,  
17 New York?

18 A. I don't recall.

19 Q. Do you recall ever  
20 discussing that location with Mr.  
21 Tomkowitz?

22 A. I don't recall.

23 MR. CLUFF: Shannon, why  
24 don't you look at that before I

1 hand it to her?

2 For the record, I'm handing  
3 counsel a copy of a document  
4 produced by Teva, subject to a  
5 confidential designation.  
6 Teva\_MDL\_A\_02664130.

7 Ms. Garcia is copied on  
8 every aspect of this chain. In  
9 fact, she replies to Mr. Tomkowitz  
10 at one point on the chain.  
11 Because she's a recipient and  
12 author of the document, despite  
13 the confidentiality designation,  
14 this e-mail allows me to -- the  
15 protective order allows me to use  
16 it with her. I'm having counsel  
17 for Amerisource review it and  
18 determine that she agrees with my  
19 analysis.

20 MS. MCCLURE: I'm not  
21 agreeing or disagreeing with the  
22 analysis. I will say that Ms.  
23 Garcia is copied on each of the  
24 embedded e-mails within this

1 chain.

2 MR. CLUFF: And she authors  
3 the second-to-the-last in the  
4 chain, or second to the last  
5 e-mail on the first page.

6 MS. MCCLURE: Yep. I agree  
7 that that is an accurate  
8 representation of the document,  
9 that Ms. Garcia sent one of the  
10 e-mails in this chain.

11 MR. CLUFF: Okay. I'd like  
12 to mark it as Exhibit-18 to Ms.  
13 Garcia's deposition.

14 - - -

15 (Whereupon,  
16 AmerisourceBergen-Garcia  
17 Exhibit-18,  
18 TEVA\_MDL\_A\_02664130-131, was  
19 marked for identification.)

20 - - -

21 MR. CLUFF: I'll give you a  
22 sticker, you have all the copies.

23 MS. MCCLURE: Oh, I have all  
24 the copies?



1 MR. CLUFF: Yes.

2 BY MR. CLUFF:

3 Q. This is really a one-page  
4 e-mail chain, Ms. Garcia. I just want to  
5 cover some basics about your recollection  
6 of this. Let's start at the bottom of  
7 the first page.

8 You see there it's from  
9 Joseph Tomkowitz@Joseph Tomkowitz --  
10 Joseph.tomkowitz@tevaPharm.

11 Do you see that?

12 A. I see that.

13 Q. And he writes to Mr.  
14 Hazewski and to yourself on July 8th,  
15 2014.

16 You see the subject line  
17 there is, Walgreens Beth Israel, New  
18 York?

19 A. I see that.

20 Q. And he writes, Here a blast  
21 from the past. This is a Walgreens  
22 on-site hospital location. We had noted  
23 as buying a high percentage of 30  
24 milligram when they came onboard and

1 reported some of their OY orders as  
2 suspicious.

3 Do you know what "OY" stands  
4 for?

5 A. Oxycodone 30.

6 Q. Why would you have reported  
7 them or some of their OY orders as  
8 suspicious?

9 MS. MCCLURE: Objection to  
10 form.

11 THE WITNESS: This might  
12 have been before my time.

13 BY MR. CLUFF:

14 Q. So you don't recall whether  
15 or not you would have been participating  
16 in looking at orders for this location?

17 MS. MCCLURE: Objection to  
18 form.

19 THE WITNESS: I don't  
20 recall.

21 BY MR. CLUFF:

22 Q. Okay. Is there something  
23 about this document to you that makes you  
24 believe it might have been before your

1 time?

2 A. I don't know.

3 Q. Okay. Let's look at the  
4 second page.

5 There's -- can you see  
6 there's a website address at the top  
7 there?

8 A. Yes.

9 Q. So looking at the beginning  
10 of that website address, it looks like it  
11 says New York.cbslocal.

12 From that, can you determine  
13 whether or not you think this is from,  
14 you know, a news organization?

15 MS. MCCLURE: Objection to  
16 form.

17 THE WITNESS: It appears to  
18 be from a news organization.

19 BY MR. CLUFF:

20 Q. And then if you continue, it  
21 looks like there's a date, 2014/07/08.

22 Do you see that?

23 A. I see that.

24 Q. And it continues and says --

1 I'm going to not read the dashes to save  
2 everybody some time and the pain of my  
3 voice, but it says, Beth Israel's  
4 ex-pharmacy director accused of stealing  
5 nearly 200,000 Oxycodone pills.

6 Do you see that?

7 A. I see that.

8 MR. CLUFF: Do you want to  
9 double check my zeros, Shannon?

10 MS. MCCLURE: I did. I'm  
11 all over it.

12 MR. CLUFF: My eyes are  
13 waning, too.

14 BY MR. CLUFF:

15 Q. So going back to the first  
16 page, Joe writes, When we first met with  
17 Tasha and her group, this was one I asked  
18 them about.

19 Reading that, do you have  
20 any recollection about discussing this  
21 pharmacy or the pharmacist with  
22 Walgreens?

23 A. The "we" in this sentence is  
24 him and Ed.

1           Q.     What do you base that  
2     statement on?

3           A.     Because I wasn't there.

4           Q.     How do you know you weren't  
5     there?

6           A.     They met with Walgreens in  
7     Chicago once, I remember that.

8           Q.     Why do you believe this  
9     meeting occurred in Chicago?

10          A.     Because Tasha hadn't been  
11     out to ABC, as far as I knew.

12          Q.     Okay. We can set that  
13     aside, then.

14                   I just have maybe three or  
15     four more documents. Do you want to take  
16     another quick break, or do you want to  
17     power through?

18          A.     Let's go through.

19          Q.     We're going to give you  
20     another break, too, after I wrap up and  
21     your lawyers are going to decide whether  
22     or not they want to do further  
23     questioning. But I'll get this done  
24     quick.

1                   What I'm going to do is hand  
2   you my copy of this document that is  
3   clean. I'm going to keep the bad copy,  
4   and I am going to give all these other  
5   counsel on the other side bad copies,  
6   too.

7                   But this document is a copy  
8   of an earnings report from 2012 to 2013.  
9   It's Bates marked ABDCMDL00364852.

10                                 -   -   -

11                                 (Whereupon,  
12                   AmerisourceBergen-Garcia  
13                   Exhibit-19, ABDCMDL00364852-856,  
14                   was marked for identification.)

15                                 -   -   -

16   BY MR. CLUFF:

17                   Q.    Is this -- I'll represent to  
18   you that this is a printout of an Excel  
19   spreadsheet that was given to me by your  
20   counsel.

21                                 Is this something you would  
22   have ever seen before in your work in  
23   AmerisourceBergen?

24                   A.    I don't remember.

1 Q. Were you generally aware of  
2 your salary and payment history while you  
3 were at AmerisourceBergen?

4 A. General.

5 Q. If you look on the second  
6 page from the very back, there are some  
7 dates at the top left corner. One is  
8 11/23/2012.

9 Do you see that?

10 A. Sorry, which corner?

11 Q. The top left corner in the  
12 column with the dates in it.

13 MS. MCCLURE: What page?

14 MR. CLUFF: The second from  
15 the back page.

16 THE WITNESS: Oh, the second  
17 from the back. Sorry.

18 The earnings report dates?

19 BY MR. CLUFF:

20 Q. Yes.

21 A. Okay.

22 Q. So do you see, if you kind  
23 of tab over in the columns, there's an  
24 entry that says, Nondiscretionary bonus

1 next to a numeral [REDACTED]?

2 A. I see that.

3 Q. Do you recall receiving a  
4 bonus in 2012?

5 A. I don't recall.

6 Q. You had only been at the  
7 company for a few months by this time in  
8 November of 2012, correct?

9 A. Yes.

10 Q. Okay. Do you recall what  
11 bonuses were based on in the diversion  
12 control team at AmerisourceBergen?

13 A. No. I think it was just a  
14 general company bonus.

15 Q. Okay. You can set that  
16 aside.

17 I'll hand you another  
18 document. This is another printout.  
19 This one didn't get a name, but it was  
20 produced as ABDCMDL00364858.

21 - - -

22 (Whereupon,

23 AmerisourceBergen-Garcia

24 Exhibit-20, ABDCMDL00364858, was



1 marked for identification.)

2 - - -

3 BY MR. CLUFF:

4 Q. Go ahead and look at that  
5 for a second.

6 Do you see on the top left  
7 corner it says, Pay change history?

8 A. Yes.

9 Q. Have you ever seen a  
10 document like this in your work history  
11 at AmerisourceBergen?

12 A. I don't recall.

13 MS. MCCLURE: Sterling, for  
14 the record, I'm going to note that  
15 there does not appear to be a  
16 confidentiality designation on  
17 this. However, in light of the  
18 fact that I believe this was  
19 produced in native, I would just  
20 request that the highly  
21 confidential designation that  
22 originally accompanied this  
23 document, given the fact that it  
24 includes compensation-related

1 history, is maintained for  
2 purposes of Exhibit-20.

3 MR. CLUFF: Sure. I don't  
4 remember if you guys gave me this  
5 in native and PDF or just in  
6 native. But I'm happy to agree  
7 that this should be designated as  
8 confidential.

9 MS. MCCLURE: Highly  
10 confidential.

11 MR. CLUFF: Sure.

12 MS. MCCLURE: Thank you.

13 BY MR. CLUFF:

14 Q. So, Liz, looking at the left  
15 side of this page, do you see there's an  
16 effective date?

17 A. Yes.

18 Q. And if you look down at the  
19 bottom of the effective date, it looks  
20 like that says, June 11, 2012?

21 A. Yes.

22 Q. And there's an ad hoc  
23 compensation change.

24 Do you recall what that was

1       about?

2                   A.       No.

3                   Q.       I think June 11, 2012 was  
4       your hire date with AmerisourceBergen.

5                           Does that sound right?

6                   A.       Yes.

7                   Q.       So that would have been your  
8       beginning salary?

9                   A.       Yes.

10                  Q.       And going up the date column  
11       there, it looks like the next entry is a  
12       November 3rd, 2013.

13                           Do you see that?

14                  A.       I see that.

15                  Q.       Moving over one column, it  
16       says, Ad hoc compensation change.

17                           Do you see that?

18                  A.       I see that.

19                  Q.       And the next column over, in  
20       the column, Reason -- do you see that?

21                  A.       Yes.

22                  Q.       -- it says, Request  
23       compensation change, with a little arrow  
24       key, adjustment, little arrow key, merit.

1 Do you see that?

2 A. I see that.

3 Q. And it looks like your  
4 salary goes from [REDACTED]0 to [REDACTED].

5 Do you see that?

6 A. I see that.

7 Q. Do you remember getting a  
8 merits-based compensation change in 2013?

9 A. Vaguely.

10 Q. Do you know what was  
11 involved in determining whether to give  
12 an associate at Amerisource a  
13 merits-based adjustment to their  
14 compensation?

15 A. I would assume performance.

16 Q. So looking at this, is it --  
17 based on your experience at Amerisource,  
18 your supervisors believed that your  
19 performance warranted a merit-based  
20 increase to your compensation?

21 A. I guess so.

22 Q. I don't want to belabor the  
23 point here, but if you look at all the  
24 columns under, Reason, starting at the

1 very top, it says, Merit process  
2 adjustment; one down it says, Merit  
3 process adjustment; one more down, it  
4 says, Adjustment, little arrow key,  
5 merit.

6 Do you see that?

7 A. Yes.

8 Q. So it looks like you  
9 received, for every full year that you  
10 worked at AmerisourceBergen, a merit  
11 adjustment to your compensation, correct?

12 A. Correct.

13 Q. And so those would have been  
14 based on, you know, meritorious  
15 performance at AmerisourceBergen?

16 A. It appears so.

17 Q. Do you know what about your  
18 performance at AmerisourceBergen  
19 warranted a merits-based adjustment?

20 A. I don't know what metrics  
21 they used.

22 Q. You had a performance review  
23 every year at AmerisourceBergen, correct?

24 A. Yes.

1 Q. Did they ever discuss with  
2 you why they were giving you a  
3 merits-based compensation increase?

4 A. I don't recall those  
5 conversations.

6 Q. You can set that aside.

7 MS. MCCLURE: So, Mr.  
8 Sterling, can I just write the  
9 words "highly confidential" on  
10 here?

11 MR. CLUFF: Yes, do it.

12 BY MR. CLUFF:

13 Q. Was any part of your  
14 performance or your compensation based on  
15 your ability to onboard customers at  
16 AmerisourceBergen?

17 MS. MCCLURE: Objection to  
18 form.

19 THE WITNESS: No.

20 BY MR. CLUFF:

21 Q. Was any part of your  
22 compensation based on your ability to  
23 complete due diligence on behalf of  
24 customers that wanted to become

1 AmerisourceBergen customers?

2 MS. MCCLURE: Objection to  
3 form.

4 THE WITNESS: No.

5 BY MR. CLUFF:

6 Q. Earlier I asked you whether  
7 you knew what was considered in  
8 determining a merits-based performance  
9 increase -- or compensation increase and  
10 you told me you were not aware.

11 I've just given you two  
12 examples, and you told me those were not  
13 included. Is there some reason, based on  
14 your recollection, that you know those  
15 were not included?

16 MS. MCCLURE: Objection to  
17 form.

18 THE WITNESS: Those were  
19 never part of our salary base.

20 BY MR. CLUFF:

21 Q. Part of your job  
22 responsibility was conducting due  
23 diligence for the chain pharmacies,  
24 correct?

1 A. Correct.

2 Q. We previously reviewed that  
3 that was something that you took great  
4 pride in, correct?

5 MS. MCCLURE: Objection to  
6 form.

7 THE WITNESS: It was just  
8 part of my duties.

9 BY MR. CLUFF:

10 Q. We also discussed that part  
11 of your job duties was to perform  
12 investigations of pharmacies, correct?

13 A. How do you mean?

14 Q. I think we discussed, in  
15 your 2016 performance evaluation, that  
16 you, as part of your job responsibilities  
17 prior to 2016, went on site visits to  
18 pharmacies?

19 A. Site visits, yes.

20 Q. I was calling them  
21 investigations.

22 Is site visits a better  
23 word?

24 A. Yes.



1 Q. Happy to use that.

2 And that you referenced site  
3 visits as an important tool to determine  
4 whether or not Amerisource should  
5 continue its relationship with a  
6 customer, among other things, correct?

7 MS. MCCLURE: Objection to  
8 form. Asked and answered.

9 THE WITNESS: Yes.

10 BY MR. CLUFF:

11 Q. Did any of your work in  
12 conducting site visits on behalf of  
13 AmerisourceBergen contribute to the  
14 merits-based increase you received during  
15 your tenure at Amerisource?

16 A. No.

17 Q. How about the Form 590 due  
18 diligence for chain customers, did that  
19 affect your compensation?

20 A. No.

21 Q. I'm going to give you one  
22 last document, and then we'll take a  
23 break. I'll keep my small copy and you  
24 can have the big copy.



1 familiar.

2 Q. Okay. I'm going to  
3 represent to you that this is a record of  
4 your payment history.

5 A. Okay.

6 Q. If you look in the middle of  
7 the first page, you'll see a column that  
8 starts with period. And if you look  
9 under that, there are some dates ranges,  
10 followed by a parenthesis that says,  
11 Payroll: Bi-weekly.

12 Do you see that?

13 A. Are you on Page 2?

14 Q. No, I'm on Page 1.

15 A. Sorry. Period, got you.

16 Q. And if you look over to the  
17 right, you can see that it says, Earned.  
18 At the top of the column, it says,  
19 Associate bonus plan. Underneath that,  
20 it says, PTO USA. Under that, it says,  
21 Salary.

22 So looking at this -- and if  
23 you look at the earnings column, does it  
24 appear to you to be a record of the

1 payments you would have received from  
2 AmerisourceBergen during your employment?

3 A. I believe so, yes.

4 Q. At the top there, there's a  
5 date, 11/24/2017, which is the payment  
6 date or reversal date.

7 Do you see that?

8 A. Yes.

9 Q. And if you go all the way  
10 over to the earnings, there's an entry  
11 that says, [REDACTED].

12 Do you see that?

13 A. I see that.

14 Q. When did you leave  
15 AmerisourceBergen, if you can recall?

16 A. October 2017.

17 Q. So this payment, which  
18 reflects an associate bonus plan payment,  
19 was made to you after you left  
20 AmerisourceBergen?

21 MS. MCCLURE: Objection to  
22 form.

23 THE WITNESS: Possibly.

24 BY MR. CLUFF:

1           Q.     So the date is definitely  
2     after the date that you just referred to  
3     as your separation date, correct?

4           A.     Got you.   Yes.

5           Q.     So that payment would have  
6     been received after you left?

7           A.     Yes.

8           Q.     Okay.   Do you recall why you  
9     received a bonus from AmerisourceBergen  
10    after you left the company?

11          A.     Bonuses were on a fiscal  
12    year basis.   So October 1st was the  
13    last -- was the beginning of the next  
14    fiscal year.

15                   So this was actually bonus  
16    from the previous year.

17          Q.     Okay.   So you received a  
18    bonus for the fiscal year prior that  
19    concluded prior to your departure, is  
20    what you're telling me?

21          A.     Yes.

22          Q.     Do you recall what the bonus  
23    was calculated on?

24                   MS. MCCLURE:   Objection to

1 form.

2 THE WITNESS: No.

3 BY MR. CLUFF:

4 Q. What were the performance  
5 metrics, if you can recall, on how  
6 bonuses were calculated?

7 A. I don't know that  
8 information.

9 Q. If you look down at the very  
10 bottom of the page, there's another line  
11 in the earned category that says,  
12 Associate bonus plan. The date there is,  
13 11/25/2016. The amount listed in the  
14 earnings column says, [REDACTED].

15 Do you see that?

16 A. I see that.

17 Q. So that's a bonus that would  
18 have been earned for work conducted in  
19 the prior fiscal year?

20 A. Yes.

21 Q. And I think we talked  
22 earlier that in 2016, that's the year  
23 when you had the formal written  
24 counseling, correct?

1 A. Yes.

2 Q. Yet you still received a  
3 bonus?

4 A. Yes.

5 Q. So in 2016, I know we  
6 discussed that you had a performance  
7 review.

8 And so I'm curious if,  
9 during that performance review, Mr.  
10 Cherveney discussed with you the reasons  
11 why you were receiving a bonus?

12 A. No, I don't recall.

13 Q. Okay. If you flip the page  
14 and look down at the bottom again, this  
15 is now Page 2, the two bottom entries in  
16 that highlighted yellow column -- by the  
17 way, for the record, the yellow column  
18 was highlighted in the version that was  
19 produced to us. So we didn't make any  
20 changes to this.

21 It's a nice, helpful  
22 reference, though.

23 At the bottom of the yellow  
24 column it says, Associate bonus plan.

1 The date is, 11/27/15. The earned amount  
2 is, [REDACTED], correct?

3 A. I see that, yes.

4 Q. Do you see underneath that,  
5 it says, Discretionary bonus-accrued?

6 A. Yes.

7 Q. The date is also 11/27/2015,  
8 right?

9 A. Yes.

10 Q. And the amount is, [REDACTED]

11 A. Yes.

12 Q. Do you have any recollection  
13 on how associates at AmerisourceBergen  
14 accrued bonuses?

15 A. I have no idea.

16 MS. MCCLURE: Objection.

17 Asked and answered.

18 BY MR. CLUFF:

19 Q. Let's do that again.

20 MR. CLUFF: And you can have  
21 your objection, Shannon.

22 BY MR. CLUFF:

23 Q. Do you have any recollection  
24 on how associates at AmerisourceBergen



1 accrued bonuses?

2 MS. MCCLURE: Objection.

3 Asked and answered.

4 THE WITNESS: I have no  
5 idea.

6 BY MR. CLUFF:

7 Q. Okay. Do you recall  
8 discussing this accrued bonus with your  
9 supervisor in 2015?

10 A. I don't recall.

11 Q. How about the associate  
12 bonus plan payment, do you recall  
13 discussing the basis for that payment  
14 from your supervisor?

15 A. I don't recall.

16 Q. On Page 3, at the bottom of  
17 the yellow column again, there's an  
18 associate bonus plan payment. The date,  
19 1/28/2014. The amount, [REDACTED].

20 Do you see that?

21 A. I see that.

22 Q. Any recollection about that?

23 A. No.

24 Q. Okay. Flip the page one

1 last time.

2 There, at the top of the  
3 column, there's a discretionary  
4 bonus-accrued. The amount is, [REDACTED].  
5 The date is, 9/23/2014.

6 Do you see that?

7 A. I see that.

8 Q. Do you have any recollection  
9 of that bonus payment?

10 A. I do not.

11 Q. Okay.

12 MR. CLUFF: Let's take a  
13 break. That's all the questions  
14 I've got for right now. But let  
15 me double check my notes to see if  
16 there's anything I want to  
17 follow-up on.

18 VIDEO TECHNICIAN: Off the  
19 record at 5:35 p.m.

20 - - -

21 (Whereupon, a brief recess  
22 was taken.)

23 - - -

24 VIDEO TECHNICIAN: We're

1 back on the record at 5:40 p.m.

2 MR. CLUFF: Ms. Garcia,  
3 just, like, three or four more  
4 questions. I'm just -- I'm not  
5 sure if we covered this at the  
6 very beginning.

7 BY MR. CLUFF:

8 Q. When you left  
9 AmerisourceBergen, I remember you talking  
10 about that, at the time, you had been  
11 having personality disagreements with  
12 Eric Cherveney; is that right?

13 A. Correct.

14 Q. And I remember you saying  
15 that he was your direct supervisor at the  
16 time?

17 A. Correct.

18 Q. Did you have any sort of,  
19 like, a fear or an apprehension, at the  
20 time you left, that you were going to be  
21 fired because of the disagreements you  
22 had with Eric Cherveney?

23 A. No.

24 MS. MCCLURE: Objection.

1 Form.

2 BY MR. CLUFF:

3 Q. Sorry. What was your answer  
4 again?

5 A. No.

6 Q. And when you left, you said  
7 you gave notice.

8 Did you discuss any kind of  
9 a severance payment with  
10 AmerisourceBergen when you left?

11 A. No.

12 Q. And you did not receive one?

13 A. No.

14 Q. Okay. After that  
15 merit-based -- excuse me, after the bonus  
16 that we discussed you received in  
17 November, have you received any payments  
18 from AmerisourceBergen at all?

19 A. No.

20 Q. Did you have a 401(k) when  
21 you worked at AmerisourceBergen?

22 A. Yes.

23 Q. Do you still have a 401(k)?

24 A. Yes.

1 Q. Do you know if it's still  
2 administered with the AmerisourceBergen  
3 plan?

4 A. No.

5 Q. You rolled it over into a  
6 different company?

7 A. It's in the same company,  
8 but it's not being managed or anything  
9 with ABC.

10 Q. Do you know if the money is  
11 held in the same pool as other ABC  
12 associates?

13 A. I don't know that.

14 Q. Okay. You said you're not  
15 employed now currently?

16 A. Correct.

■ ■ [REDACTED]

■ [REDACTED]

19 MS. MCCLURE: Objection.

20 Form. Relevance.

■ [REDACTED] [REDACTED]

22 BY MR. CLUFF:

23 Q. Understood.

24 MR. CLUFF: That's all the

1                   questions I have.

2                   MS. MCCLURE: I have no  
3                   questions. Anyone in the room or  
4                   on the phone?

5                   MR. CLUFF: I guess we  
6                   should ask. Anyone at the end of  
7                   table? Bob?

8                   VIDEO TECHNICIAN: This  
9                   concludes today's deposition. The  
10                  time is 5:42 p.m. We are off the  
11                  record.

12                                   - - -

13                                   (Whereupon, the deposition  
14                                   concluded at 5:42 p.m.)

15                                   - - -

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CERTIFICATE

I HEREBY CERTIFY that the  
witness was duly sworn by me and that the  
deposition is a true record of the  
testimony given by the witness.

Amanda Maslynsky-Miller  
Certified Realtime Reporter  
Dated: December 16, 2018

(The foregoing certification  
of this transcript does not apply to any  
reproduction of the same by any means,  
unless under the direct control and/or  
supervision of the certifying reporter.)

1 INSTRUCTIONS TO WITNESS

2  
3 Please read your deposition  
4 over carefully and make any necessary  
5 corrections. You should state the reason  
6 in the appropriate space on the errata  
7 sheet for any corrections that are made.

8 After doing so, please sign  
9 the errata sheet and date it.

10 You are signing same subject  
11 to the changes you have noted on the  
12 errata sheet, which will be attached to  
13 your deposition.

14 It is imperative that you  
15 return the original errata sheet to the  
16 deposing attorney within thirty (30) days  
17 of receipt of the deposition transcript  
18 by you. If you fail to do so, the  
19 deposition transcript may be deemed to be  
20 accurate and may be used in court.



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E R R A T A

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3

PAGE

LINE

CHANGE/REASON

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ACKNOWLEDGMENT OF DEPONENT

I, \_\_\_\_\_, do  
hereby certify that I have read the  
foregoing pages, 1 - 495, and that the  
same is a correct transcription of the  
answers given by me to the questions  
therein propounded, except for the  
corrections or changes in form or  
substance, if any, noted in the attached  
Errata Sheet.

\_\_\_\_\_  
ELIZABETH GARCIA

\_\_\_\_\_  
DATE

Subscribed and sworn  
to before me this  
\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

My commission expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public

	LAWYER'S NOTES		
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